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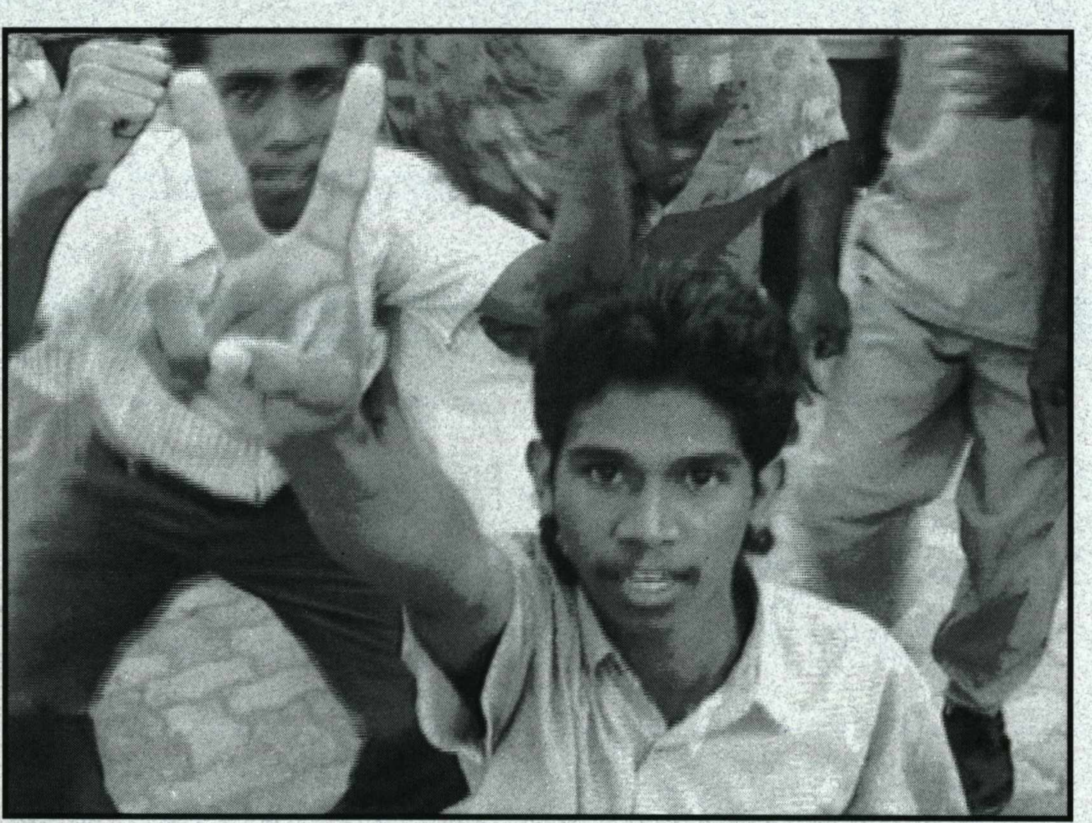
East Timor Human Rights Centre

Breaking the Cycle of Human Rights Violations in East Timor



Annual Report of Human Rights Violations in East Timor 1997

February 17, 1998 Ref: SR3/97

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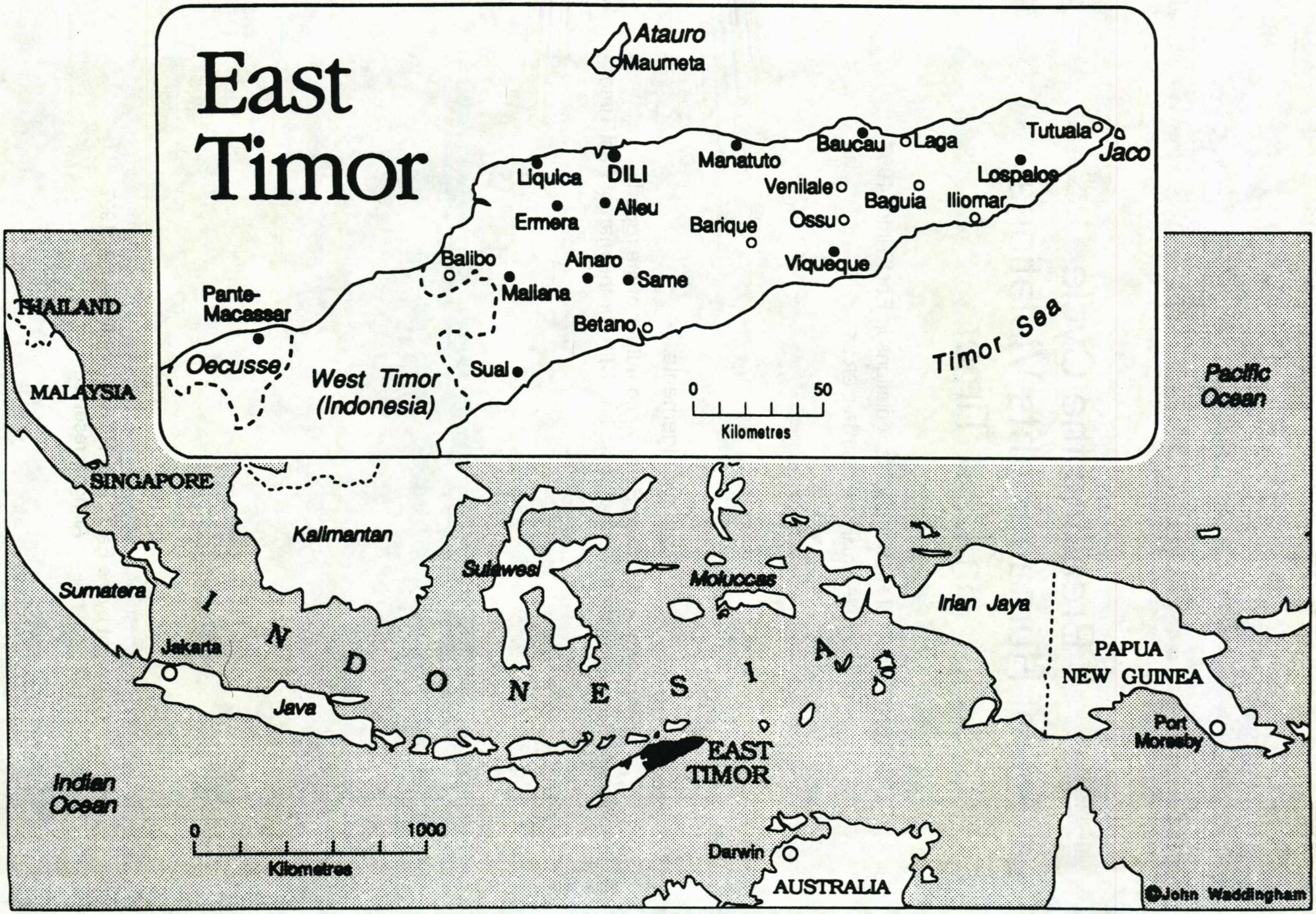
East Timor
Atauro
Maumeta
Tutuala
Jaco
Baucau
Laga
Manatuto
Liquica
DILI
Lospalos
Venilale
Baguia
Iliomar
Ermera
Aileu
Barique
Ossu
Balibo
Ainaro
Viqueque
Maliana
Same
Pante-Macassar
Betano
Oecusse
West Timor (Indonesia)
Suai
Timor Sea
0
50
Kilometres
THAILAND
MALAYSIA
SINGAPORE
Kalimantan
Sulawesi
Moluccas
Sumatera
Irian Jaya
Pacific Ocean
I N D O N E S I A
Jakarta
Java
PAPUA NEW GUINEA
Port Moresby
EAST TIMOR
Indian Ocean
0
1000
Kilometres
Darwin
AUSTRALIA

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EXECUTIVE SUMMARY

In 1997 the international community showed a new willingness to search for solutions to the problems of conflict and human rights violations in East Timor. The pledge by the new UN Secretary-General, Kofi Annan, to renew UN peace-making efforts, the change of format in the Tripartite Talks under UN auspices, the adoption of a resolution on East Timor by the 53rd session of the UN Commission on Human Rights and the initiatives of individual governments attest to a new international commitment, inspired by the award of the Nobel Peace Prize to Bishop Belo and José Ramos-Horta.

Yet this new engagement has not yielded any breakthroughs in the peace talks. Nor has it led to significant changes on the ground. Indeed, 1997 saw a continuation of the patterns of human rights violations that have persisted in East Timor for many years: arbitrary detentions, torture and ill-treatment, extra-judicial executions and disappearances. The East Timor Human Rights Centre (ETHRC) has documented these violations, as well as highlighting unfair trials and restrictions on freedom of expression and association.

There was a marked increase in violations by Indonesian security forces in the first half of the year, especially between May and July, in response to the violence which surrounded the May 1997 general election. During this period there were also credible reports of violations by the Armed Forces for the Liberation of East Timor (FALINTIL)[1] and the ETHRC condemns these as violations of international humanitarian law. However, the attacks by FALINTIL do not justify the Indonesian security forces' response of increased human rights violations. Following the FALINTIL attacks, the Indonesian military intensified its activities, with many innocent East Timorese being arbitrarily detained, tortured, intimidated and harassed in order to obtain information.

Throughout the year, legitimate and peaceful expressions of political dissent by the East Timorese people were met with excessive use of force by security forces and serious violations such as arbitrary detention and torture. Security forces also systematically committed violations against supporters of the Resistance, with East Timorese students continuing to be targeted.

This report documents these violations. It also examines ways of breaking the cycle of violence, including options for human rights monitoring by the UN. On that basis the report ends with recommendations for the government of Indonesia, the East Timor Resistance and for the international community.

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[1] The National Council of Maubere Resistance (the umbrella organisation for the East Timorese Resistance) has publicly accepted responsibility for some of these violations and has called for an end to violence in East Timor.

A. INTRODUCTION

> *"For me, 1997 has not brought any positive improvements which have contributed to the resolution of the East Timor issue."* [2]
>
> \- Monsignor Carlos Ximenes Belo, Bishop of Dili
> December 1997

1. New International Engagement

The award of the Nobel Peace Prize to Bishop Carlos Ximenes Belo and José Ramos-Horta in October 1996 revived hopes for change in East Timor. Against this backdrop, within weeks of taking up his post as Secretary-General of the United Nations, Kofi Annan, appointed Ambassador Jamsheed Marker as his Special Representative for East Timor to inject fresh momentum into the peace process.

At the UN Commission on Human Rights (UNCHR) in March-April 1997, member states renewed their dialogue with the government of Indonesia on options for reversing the deteriorating human rights situation in East Timor. The European Union (EU) sought an agreement on a chairman's statement that would have included a clear expression of concern about persistent violations as well as commitments by Jakarta to implement concrete steps to change the situation on the ground. When agreement on such a text proved impossible, the Commission adopted a resolution (by a vote of 20 to 14 with 18 abstentions) clearly expressing concerns about ongoing human rights violations and calling on the government of Indonesia to:

> *ensure the early release of East Timorese detained or convicted for political reasons...;*
>
> *ensure that all East Timorese in custody are treated humanely in accordance with international standards, and that all trials in East Timor are conducted in accordance with international standards;*
>
> *cooperate fully with this Commission and its thematic rapporteurs and working groups, and to invite these ... to visit East Timor, in particular the Special Rapporteur on torture, in line with the commitment undertaken to invite a thematic rapporteur in 1997;*
>
> *upgrade the memorandum of intent of 26 October 1994 on technical cooperation into the envisaged memorandum of understanding ...;*
>
> *bring about the envisaged assignment of a programme officer of the Office of the United Nations High Commissioner for Human Rights at the Jakarta office of the United Nations Development Programme ...;*
>
> *provide access to East Timor for human rights organizations.*

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[2] Reported from Jakarta by AFP, 6 December 1997.

After visiting East Timor and consulting widely with stakeholders, in June 1997 the UN Special Representative convened the ninth round of Tripartite Talks, between the ambassadors of Indonesia and Portugal. There the parties agreed to shift the talks to the senior officials' level and increase their frequency as well as their confidentiality, to generate an environment more conducive to the genuine search for solutions to problems including persistent human rights violations. They also agreed to allow the UN to convene another round of the All-inclusive Intra-East Timorese Dialogue (AIETD) to renew the dialogue between different sectors of East Timorese society.[3]

The search for peace and for solutions to the problem of human rights violations was assisted by other initiatives. The Clinton administration sent senior US officials to East Timor and Indonesia to express its concern at ongoing human rights violations, explore ways of assisting efforts to protect human rights on the ground and voice support for more inclusive peace negotiations. President Mandela of South Africa also visited Indonesia, met with imprisoned East Timorese Resistance leader Xanana Gusmao and discussed, with President Soeharto, ways of injecting fresh energy into the talks. On the basis of the ethical foreign policy announced by the new British government, Foreign Secretary Cook highlighted the problem of East Timor during his visit to Jakarta; on the eve of its Presidency of the European Union (EU), Britain proposed that an ambassadorial-level EU delegation be sent to East Timor in 1998 to contribute to peace efforts.

These are important expressions of diplomatic interest. Yet the statement by Bishop Belo quoted above is a sobering reminder of how difficult it is to promote change in a situation which has been entrenched for so long.

2. Enduring Obstacles and Violence

Three senior officials meetings took place under UN auspices in between August and November 1997. Because of the confidentiality rules it is difficult to know what was discussed in those talks, yet it is worth noting that no breakthroughs were announced. Moreover the August 1997 call by Konis Santana, leader of the Armed Forces of the Liberation of East Timor (FALINTIL), for negotiations on limited autonomy, was dismissed by Jakarta. The September 1997 call for a cessation of hostilities by José Ramos-Horta, Special Representative of the National Council of Maubere Resistance (CNRM), was also rebuffed.

A new round of the All-inclusive Intra-East Timor Dialogue (AIETD) also took place on 20-23 October 1997. The talks produced a declaration which reaffirmed "the urgent need for the implementation of adequate measures for the promotion and protection of human rights in general, and particularly the protection and promotion of the rights of women, children and youth".[4] The statement also included an agreement in principle to establish a Centre for Culture and Development Timor Lorosae in Dili, and for invitations to be issued by East Timorese leaders living inside and those in the diaspora to visit each other in due course. Although these confidence-building measures keep the door for East Timorese participation in negotiations open for the future, they will not produce major changes in the short or even perhaps in the medium term.

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[3] For background on the Tripartite Talks between the governments of Indonesia and Portugal, mediated by the UN, see Catholic Institute for International Relations, East Timor: The Continuing Betrayal (London: CIIR, 1996). The rationale behind shifting the talks from the ministerial to the senior officials level is that this should facilitate more frequent and detailed discussions of substantive matters - such as measures to protect human rights. Any agreements reached at the senior officials level will, however, have to be referred back to the ministerial level in order to become formal accords between the governments of Indonesia and Portugal.

Inside East Timor violence escalated and the human rights situation remained grave. On 12 December 1997 the Justice and Peace Commission of the Catholic Church in Dili reported that it had accepted 339 of the 451 allegations of human rights violations that it received in 1997. In its January 1998 report, the US Department of State noted that:

> *an early 1997 campaign of harassment and detention by the security forces raised tension to a high level. During the May election and its aftermath, East Timor's low-level insurgency intensified with guerrilla attacks that inflicted the highest number of deaths in years on security personnel and civilians. These attacks were followed by the capture and death of a prominent guerrilla commander and widespread detentions, accompanied by reports of killings, disappearances, torture, and excessive use of force on the part of the authorities ... In November at least five students were injured when a large number of security force personnel entered the University of East Timor campus firing their weapons. One political prisoner was released ... No significant progress was made in accounting for persons missing following the 1991 Dili incident ... The Government granted limited access to the area to foreign journalists but banned all travel by all foreign human rights NGO's except the ICRC. The Dili branch of the National Commission on Human Rights, which opened in 1996, remained ineffective, but increased efforts by the Catholic Church and others ... improved the overall quality of human rights monitoring in East Timor. There were no reports of military personnel who committed abuses in East Timor being punished.*[5]

In 1997 the East Timor Human Rights Centre received detailed reports on numerous cases of human rights violations which support this interpretation of the situation. The Centre's August 1997 report documents cases of violations during the first half of the year.[6] The current report documents violations during the period August to December 1997, provides updates on earlier cases, and includes some cases from earlier in the year which were not previously documented by the ETHRC. Before examining the details, it is worth highlighting main types of violations which occurred in 1997:

Arbitrary detentions: In 1997, the long-established pattern of arbitrary detention in East Timor continued with at least 771 East Timorese being arbitrarily detained by Indonesian security forces. The detentions were arbitrary in that the suspects were invariably arrested without warrants[7] and were often arrested by the military or civilian militia, rather than by police as required under Indonesian law.[8] In many cases detention was arbitrary because suspects were subjected to duress or torture in order to obtain information[9] or because they were denied access to legal counsel.[10] Many of those detained were detained as part of the intensified military activity in response to the violence surrounding the Indonesian general election in May 1997. Other arbitrary arrests followed peaceful Resistance activities such as demonstrations. The ETHRC also received reports of East Timorese people, particularly students suspected of involvement in the Resistance, being arbitrarily detained by security forces in other parts of Indonesia.

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[4] Krumbach Declaration, 23 October 1997.

[5] US Department of State, Indonesia Report on Human Rights Practices for 1997 (Washington, DC: DOS Bureau of Democracy, Human Rights and Labor, 30 January 1998).

[6] ETHRC, Human Rights Deteriorate in East Timor: Bi-Annual Report of Human Rights Violations in East Timor, January to July 1997 SR2/97 (Melbourne: ETHRC, 30 August 1997).

- **Torture and Ill-treatment:** The ETHRC continued to receive reports of East Timorese being tortured and ill-treated in detention in order to obtain information,[11] while others were tortured in their homes or in forest areas. In 1997, at least 155 East Timorese were subjected to torture and ill-treatment at the hands of security forces, both in East Timor and in other parts of Indonesia. Some of these cases are believed to have resulted in deaths in custody.

- **Extra-judicial executions:** The ETHRC continued to receive occasional reports of extra-judicial executions of East Timorese civilians by security forces in East Timor. In 1997, it is believed at least 52 East Timorese were killed by Indonesian security forces.

- **Disappearances:** The Centre also received reports of disappearances of East Timorese people at the hands of security forces. Some of these cases were subsequently clarified and were in fact cases of arbitrary detention but the ETHRC remains deeply concerned about the safety of three University of East Timor students who still have not been located. The three disappeared after the excessive use of force by security forces, on campus premises, in November 1997.

- **Restrictions on freedom of expression and association:** Many of the detentions noted above occurred in response to what would be seen as legitimate expressions of political dissent under international norms. Peaceful associations such as the Movement for the

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[7] Suspects must be served with a written warrant of arrest, unless they are caught 'in flagrante delicto', and their relatives must be furnished with a copy (Indonesian Criminal Code of Procedure, KUHAP Article 18). Arrests are valid for a maximum of 24 hours, after which the authorities must produce an arrest warrant or release the suspect (KUHAP Article 19).

[8] Sole responsibility for arrest, detention and investigation in criminal cases rests with the police (KUHAP Art. 18)

[9] Duress in any form may not be used by investigating officials to obtain information from a suspect or witness. (KUHAP Article 19).

[10] Suspects have the right to consult with and be accompanied by legal counsel of their own choice at all stages of interrogation (KUHAP Articles 54,55,57). Detainees have the right to ongoing access to their lawyers throughout the trial process (KUHAP Articles 54,56). Legal counsel should be free to meet and speak in confidence with their clients (KUHAP Articles 70, 71).

[11] Indonesia has subscribed to the *United Nations Standard Minimum Rules for the Treatment of Prisoners* which provides detailed guidelines in relation to punishment within the prison system. The key provision of the Rules are: "Section 30(2): No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case." "Section 31: Corporal punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences."

Reconciliation and Unity of the East Timorese People have been summoned for questioning and otherwise intimidated by the authorities.

- **Unfair trials:** The Centre received many reports of defendants who had inadequate access to legal protection in 1997.[12] Reports of unfair trials also continued[13] and harsh sentences were handed down for many of the East Timorese convicted in Indonesian courts. The death penalty was used for the first time since the Indonesian occupation of East Timor in 1975, with two East Timorese men being sentenced to death.
- **Violations by FALINTIL:** The Centre also received credible reports of violations of international humanitarian law by the Armed Forces for the Liberation of East Timor (FALINTIL). The National Council of Maubere Resistance has publicly admitted responsibility for some of these violations, and has called for an end to violence in East Timor. Other reports of violations by FALINTIL, emanating mostly from the military authorities, have not been adequately substantiated.

The persistence of grave human rights violations reflects the failure by the government of Indonesia to implement the resolution on East Timor passed at the UN Commission on Human Rights in April 1997. In addition, Jakarta has not adequately followed up on the Commission's call for cooperation with its thematic rapporteurs and working groups, most notably by failing to invite the Special Rapporteur on Torture to visit East Timor, as agreed in principle at the Commission in 1996. Discussions on the establishment of a UN human rights monitoring office in Jakarta also failed to yield a useful agreement. No international human rights NGOs other than the International Committee of the Red Cross (ICRC) were allowed to visit or operate programmes in East Timor despite calls by the Commission for greater access.[14]

3. The Roots of Persistent Violations

The difficulties in East Timor are occurring in the context of a wider crisis in Indonesia. Although the New Order installed after the 1965 military coup is lauded for having generated economic growth, social benefits and political stability, its weaknesses have come to the surface in recent years. The sharp decline in the value of the Indonesian rupiah in late 1997, business concerns about corruption in an economy dominated by the ruling family, undemocratic legislative elections, uncertainty over future leadership given the advanced age of President Soeharto, the subordination of the judiciary to the executive and the military, social unrest and ecological catastrophes in several parts of the archipelago - these are all symptoms of a growing crisis of governance in this influential Southeast Asian country.[15]

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[12] See footnote 10 above for details of rights to legal representation under Indonesian law.

[13] Aside from failing to meet standards at international law, trials often failed to comply with requirements under Indonesian law.

[14] The Australian Catholic Social Justice Council (ACSCJ) was allowed to send a delegation to East Timor in 1997; however, the ACSCJ is not a human rights NGO per se, the delegation was required to keep its report confidential, with only the governments of Australia and Indonesia receiving copies. The International Committee of the Red Cross is allowed to carry out vital humanitarian services inside East Timor. Yet as noted by the US State Department, no other international human rights NGOs were allowed to visit the territory in 1997.

[15] For details see US Department of State, op cit.

Yet the situation in East Timor is extreme because the island has been occupied by Indonesia for over 22 years. The central government has invested resources in East Timor, but it has also encouraged and accepted the migration of over 200,000 migrants from other islands, alongside a population of approximately 650,000 East Timorese. Some East Timorese have been removed from their ancestral lands and relocated to sub-standard living conditions. The government has established public services including education and justice, yet they function almost exclusively in Bahasa Indonesia while the local language is Tetum. Many East Timorese feel discriminated against in the public and private sectors[16] and in fact, the unemployment rate amongst the East Timorese is high. The resulting ethnic tension is not surprising and is easily manipulated by the authorities, sometimes resulting in violence.

Between 15,000 and 20,000 troops from various services are stationed in East Timor. The military is more autonomous and politically predominant than in most other parts of the country. [17] Its counter-insurgency strategies have been comprehensive and ruthless. Security force personnel enjoy almost complete impunity from prosecution for crimes committed in this context. In fact, in 1997 the ETHRC is not aware of any members of the Indonesian military being prosecuted for human rights violations perpetrated by them.

In recent years the armed forces have sponsored the creation of new paramilitary organisations which monitor and harass the local population and counteract growing political dissent. Some of these are in fact civilian youth groups, such as the GARDAPAKSI (Pro-Integration Youth Action Group) which has been notably active since it was formed in 1995. Members of GARDAPAKSI have received military training from KOPASSUS (the elite forces of the Indonesian military) and have accompanied the Indonesian military in operations against the East Timorese Resistance.

The rule of law is tenuous with people often being sentenced following unfair trials. Authorities continue to repressive legislation such as the "hate-sowing" articles, which in 1997 were used to convict people who appear to have done nothing more than peacefully express their views. Matters are worsened by the subordination of the police and judiciary to military control, and the scarcity of independent legal services.

The crisis of the New Order, the severity of the occupation and the absence of progress in the peace talks have fuelled the resurgence of nationalist resistance. This movement is led by the National Council of Maubere Resistance (CNRM), a loose umbrella for several hundred FALINTIL guerrillas in the mountains, the Clandestine Front activists in urban centres, and the Diplomatic Front in the international arena. The escalation of violence in 1997 reflected the interplay of attacks by FALINTIL during and after the widely-questioned May legislative elections, increased urban protest and other operations by the Clandestine Front, and intensified security operations by Indonesian forces.

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[16] Indonesia invaded East Timor in December 1975. The UN Security Council has condemned the occupation, the UN General Assembly has asserted the right of the East Timorese people to self-determination and the UN does not recognise Indonesia's claim to sovereignty over the territory. See CIIR, 1996, op cit. for details.

[17] For details on the deployment and conduct of security forces, see Human Rights Watch/Asia, Deteriorating Human Rights in East Timor (New York: HRW/Asia, 29 September 1997).

In 1997, the government of Indonesia attributed much of the troubles to "terrorism" on the part of the East Timorese Resistance. However, this report shows that the violations of international humanitarian law committed by the Resistance in 1997 do not amount to a terrorist strategy aimed at forcing civilians to turn against Indonesian rule, but rather appear to be isolated incidents. Given that there is no history of terrorism in the East Timorese Resistance, the ETHRC believes that allegations from the Indonesian authorities of East Timorese terrorist activity should be treated with great caution and a clear distinction should be made between isolated violations by FALINTIL and the unsubstantiated allegations of terrorism made by the government of Indonesia.

4. Possibilities for Change

Despite the understandable disappointment voiced by Bishop Belo at the end of 1997, there are glimmers of light in this otherwise dark panorama. One positive trend is the resurgence of civil society inside East Timor manifested by the dramatic growth of Catholic Church membership and activism over the years. The increasing involvement of Church leaders in local peace-making, their indirect contributions to the official peace process, and the expansion of programmes in the areas of basic education and health are all promising signs. The strengthening of the human rights documentation and protection work carried out by the Church's Justice and Peace Commission, in collaboration with the private Human Rights and Law Foundation, is also an important trend.

The international community should support this work, since it is essential for the East Timorese to expand their own capacity to promote their human rights and broader aspirations. Foreign backing should adhere to standards of good practice for development assistance, including due consideration for the absorptive capacity of local agencies. International support could also include urging the government of Indonesia to agree to confidence-building measures in the Tripartite Talks to, for example, facilitate the work of local human rights organisations by allowing them greater access to detainees, prisoners and trials.

In 1996 the government of Indonesia established an office of the National Human Rights Commission (Komnas HAM) in Dili. On this basis, it has argued that there is no need for international human rights monitoring in East Timor. Yet as recognised in the US State Department report cited above, in 1997 Komnas HAM operations in East Timor "remained ineffective". The Dili office is located across from military headquarters and its personnel do not enjoy the confidence of the local population. Moreover the presence of Komnas HAM, a quasi-governmental organisation, is legally contestable in East Timor due to the illegal occupation of the territory by the Indonesian state.

In 1997, Komnas HAM only conducted one investigation in East Timor, sending a mission from Jakarta to investigate the November UNTIM (University of East Timor) incident in which security forces used excessive force against students on campus. Their report was critical of the Indonesian military but did not make concrete recommendations aimed at addressing their concerns and is likely to have little impact on the conduct of security forces in East Timor.[18]

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[18] The report stated that Komnas HAM is preparing a special committee to investigate the East Timorese situation but it is not known when the committee will be established and what its mandate will be. At this stage, it is

5. International Human Rights Monitoring

Given the incipient character of local human rights NGOs and the intrinsic difficulties with Komnas HAM's operations in East Timor, there is a clear need for international scrutiny of the human rights situation to back up local efforts. The 1997 UNCHR resolution on East Timor called for a programme officer, working for the Office of the High Commissioner for Human Rights, to be posted in the UNDP office in Jakarta and given permission to visit East Timor. This idea has been under discussion for several years. In 1994 the Government of Indonesia and the UN Centre for Human Rights signed a Memorandum of Intent which codified an agreement, in principle, for the Centre to establish an office in Jakarta to oversee a programme of technical cooperation in the field of human rights for the Republic of Indonesia as a whole.

After his visit to East Timor and Indonesia in December 1995, the UN High Commissioner for Human Rights recommended that this document be upgraded to a memorandum of understanding to allow the establishment of an office in Jakarta, with regular access to Dili and a mandate for human rights monitoring - in addition to its mandate for technical cooperation. This idea was partly enshrined in the statement on East Timor which the Chair of the UNCHR made in April 1996, though the government of Indonesia successfully opposed the explicit mention of any mandate for on-site human rights monitoring in that declaration. Yet shortly after the adoption of the UNCHR resolution in 1997, Jakarta called off further discussions with the UN regarding this mechanism.[19]

The CNRM and several respected human rights NGOs have opposed the envisaged mechanism since the government of Indonesia has steadfastly rejected UN proposals that it include a mandate for human rights monitoring, namely to receive complaints from victims of human rights violations, investigate those complaints and report on a regular basis to the appropriate bodies of the UN human rights system. Without a mandate for rigorous monitoring, this mechanism is unlikely to have a positive impact on the human rights situation in East Timor. Moreover, it is difficult to see how one programme officer could carry out real monitoring functions from a base in Jakarta, over 2,000 kilometres away from East Timor, even if (s)he had trustworthy local staff. It is also known that the UN Development Programme, despite its experience in the area of development, does not have a track record of overseeing human rights monitoring. The UNDP's close relations with government agencies could be a major obstacle to effectiveness, particularly given the contested nature of the Indonesian state in East Timor. Finally, the posting of a UN officer in Jakarta, with a mandate for East Timor, could imply recognition of Indonesia's claim to sovereignty over the territory.

As such the East Timor Human Rights Centre urges the international community not to support further talks aimed at establishing an office in Jakarta with a vague mandate for access to East Timor. There are better ways of strengthening impartial international monitoring of the human rights situation. One of these is to encourage the government of Indonesia to cooperate with the thematic mechanisms of the UN Commission on Human Rights. One mechanism of particular relevance to the violations currently occurring in East Timor is the Special Rapporteur on

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difficult to determine whether such a committee will make a concrete difference to human rights in East Timor.

[19] The government of Indonesia called off discussions on the grounds that it was not bound by the 1997 UNCHR resolution since it had not agreed to it. However, Jakarta has not yet implemented the agreements which it did negotiate with the UN High Commissioner for Human Rights and members of the UNCHR, including the 1996 chair's statement.

Torture, and the need for this Rapporteur to visit East Timor was highlighted in the 1997 UNCHR resolution. A visit by the Special Rapporteur on Torture, Nigel Rodley, in 1998 could provide an impartial view on the claims and denials of ongoing torture by security forces. The government of Indonesia could also foster a serious dialogue on how to promote respect for human rights in East Timor by cooperating with other UN thematic mechanisms and allowing unhindered access by international human rights NGOs.

The international community could also contribute to the exploration, through the UN-mediated peace talks, of possibilities for an effective on-site UN human rights presence in the future. The discussion of human rights at the senior officials level opens the door to examining how the deployment of an on-site UN human rights presence inside East Timor, with a mandate for institutional strengthening and human rights monitoring, could provide an impartial viewpoint and help build the mutual confidence required to resolve the conflict. With adequate technical support from the Office of the UN High Commissioner for Human Rights or NGOs, the All-inclusive Intra-East Timorese Dialogue could also address these issues and generate informed proposals for discussion in the Tripartite Talks.

B. RECOMMENDATIONS

1. Recommendations to the Indonesian Government

The ETHRC urges the government of Indonesia to:

1. Implement the 1997 UNCHR resolution on East Timor. In particular to:

- Release all East Timorese detained or convicted for political reasons.
- Ensure that all East Timorese in custody are treated humanely in accordance with international standards.
- Ensure that all trials in East Timor are conducted in accordance with international standards.
- Invite the Special Rapporteur on torture to visit East Timor in 1998.
- Cooperate fully with the thematic rapporteurs and working groups of the UN Commission on Human Rights.
- Allow international human rights NGOs unhindered access to East Timor.

2. Clarify immediately the whereabouts of all people documented as "disappeared" in this report; immediately release all those in detention who have not been charged with a recognisable offence under Indonesian law.

3. Establish a central register of all detainees in East Timor and require all members of the military and police to report the names of the detainees immediately so that family members can be notified of the detention.

4. Conduct full and impartial investigations of the violations documented in this report, in particular suspected extra-judicial executions and allegations of torture at the hands of security forces.

5. Put an end to the practice of using military or para-military forces to arrest and interrogate suspects, as these are functions of the police under the Indonesian Code of Criminal Procedure (KUHAP).

6. Ensure that security forces act in accordance with international standards on the appropriate use of force when dealing with peaceful demonstrations.

7. Repeal the repressive "hate-sowing" articles of the Indonesian Criminal Code (KUHP) which are frequently used by Indonesian authorities to suppress the peaceful and legitimate expression of dissent.

8. Explore in good faith, with the Office of the UN High Commissioner for Human Rights and through the Tripartite Talks under UN auspices, other possibilities for protecting and promoting human rights in East Timor, including options for deploying UN human rights presence on the ground in the future.

9. Encourage the rigorous discussion of such options in the All-inclusive Intra-East Timorese Dialogue, also under UN auspices.

2. Recommendations to the East Timorese Resistance

The ETHRC urges the East Timor Resistance to:

1. Scrupulously avoid targeting civilians in its combat operations.

2. Publicly state its commitment to the norms established under international humanitarian law and abide by that commitment.

3. Recommendations to the International Community

The ETHRC calls on the international community to:

1. Clearly express its concern over persistent human rights violations in East Timor, including arbitrary detentions, ill-treatment and torture by security forces, extra-judicial executions, disappearances, restrictions on freedom of expression and association, unfair trials, as well as violations of international humanitarian law by opposition forces.

2. Urge the Indonesian government to implement the 1997 resolution of the UN Commission on Human Rights, in particular its recommendation to:

- Release all East Timorese detained or convicted for political reasons.
- Ensure that all East Timorese in custody are treated humanely in accordance with international standards.
- Ensure that all trials in East Timor are conducted in accordance with international standards.
- Invite the Special Rapporteur on torture to visit East Timor in 1998.
- Cooperate fully with the thematic rapporteurs and working groups of the UN Commission on Human Rights.
- Allow international human rights NGOs unhindered access to East Timor.

3. Call on the government of Indonesia to ratify the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

4. Provide material and diplomatic support for the efforts of local human rights NGOs to protect and promote human rights on the ground inside East Timor.

5. Encourage the governments of Indonesia and Portugal to adopt, in the Tripartite Talks under UN auspices, meaningful confidence-building measures for monitoring, protecting and promoting human rights in East Timor.

6. Support efforts by the All-inclusive Intra-East Timorese Dialogue to consider and propose similar confidence-building measures in the field of human rights.

7. Support efforts by the Office of the UN High Commissioner for Human Rights or other bodies, to explore how the UN could contribute to the search for peace by deploying an effective on-site human rights presence inside East Timor. Discontinue efforts to encourage the government of Indonesia to sign a memorandum of understanding to establish a UN human rights office in Jakarta with a vague mandate for human rights promotion in East Timor.

C. HUMAN RIGHTS VIOLATIONS

In its 1996 annual report, the ETHRC noted that it had

> *received reports of 24 suspected extra-judicial executions, most of which have not been investigated by Indonesian authorities, and numerous reports of "disappearances". 1996 saw a high level of arbitrary arrests, with up to 381 East Timorese people being arrested, many of them young East Timorese. Reports have continued that detainees are systematically subjected to torture and ill-treatment, and sentenced at trials which are unfair.*[20]

In August 1997, the Centre concluded that the human rights situation had in fact deteriorated:

> *this period has seen a marked increase in violations, particularly extra-judicial executions, arbitrary arrests and detention, and systematic torture and ill-treatment of prisoners. It is believed at least 707*[21] *East Timorese people were arrested and 49 killed.*[22]

In the period from August to December 1997 there were continued arrests and arbitrary detentions, persistent torture and ill-treatment, excessive use of force by security force personnel, some extra-judicial executions and disappearances, continued restrictions on freedoms of association and expression, as well as unfair trials. The ETHRC also received reports of violations of international humanitarian law by the Armed Forces for the Liberation of East Timor (FALINTIL) in the first half of the year, though the reports of further violations for the August-December 1997 period have not been substantiated.

The details of these violations are reported in this section. In East Timor as in many other situations, cases often include several types of violations: victims may be arrested without warrants, arbitrarily detained, ill-treated or tortured, some die in custody as a result or are convicted through unfair trials. In order to preserve the integrity of these cases, several categories of violations have been combined under one heading, particularly in sub-section one, and presented chronologically to provide a sense of trends in 1997. Although the focus is on violations of civil and political rights, this does not imply that violations of cultural, economic and social rights are not taking place or that the ETHRC considers these less important: such violations are documented elsewhere in ETHRC publications and by other organisations.[23]

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[20] ETHRC, Continuing Human Rights Violations in East Timor: Annual Report of Human Rights Violations in East Timor 1996, AR1/97 (Melbourne: ETHRC, 28 February 1997), p. 1.

[21] This figure included people who were actually charged as well as arbitrary detentions.

[22] ETHRC, August 1997, op cit., p.1. Three of those reported as killed by Indonesian security forces were subsequently confirmed as being killed by FALINTIL. Details are on page 33.

[23] For example, see Miranda E. Sissons, From One Day to Another: Violations of Women's Reproductive and Sexual Rights in East Timor (Melbourne: ETHRC, 1997) and George J. Aditjondro, Violence by the State Against Women in East Timor: A Report to the UN Special Rapporteur on Violence Against Women, Including its Causes and Consequences (Melbourne: ETHRC, 7 November 1997). See also the analysis of social marginalisation in Human Rights Watch/Asia, September 1997, op cit.

1. Arbitrary Detentions, Disappearances, Torture & ill-treatment and Excessive Use of Force

Four trends are highlighted in this section. First, the incident at the University of East Timor in November 1997 reflects the propensity of some security force personnel to employ excessive force in dealing with students who are expressing legitimate concerns in a peaceful manner. International human rights norms define the excessive use of force as the employment of measures, by governmental security agents, that are disproportionate to a threat to public security, as in the use of live fire against unarmed students.[24] This tendency is also reflected in the authorities' treatment of East Timorese students in other parts of Indonesia.

Second, in their crackdown on East Timorese suspected of participating in Resistance activities during the May 1997 elections, security force personnel have continued to detain suspects arbitrarily, subject them to torture or ill-treatment, often withholding information on the detainees' whereabouts.[25] Third, the authorities have responded to the apparent spread of armed Resistance activities to other parts of Indonesia (exemplified by the bomb-manufacturing operation in Semarang) through further arbitrary detentions, torture and ill-treatment as well as unfair trials. Finally, other East Timorese residing in other parts of Indonesia have been arbitrarily detained, tortured or ill-treated, sometimes resulting in enduring psychological trauma for the victims.

Arbitrary detention, torture and ill-treatment constitute grave violations of the right to the physical and psychological integrity as set out in the Universal Declaration of Human Rights, which the government of Indonesia has endorsed through its membership of the United Nations. They also constitute violations under the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Although these instruments have not been ratified by the government of Indonesia, they represent the widely accepted international standards.

a) University of East Timor (UNTIM) incident

On 14 November, violence broke out at the campus of the University of East Timor (UNTIM), resulting in sixteen East Timorese students being arrested and an unknown number of students sustaining injuries.

According to ETHRC sources, the violence erupted after an argument between students and two plain clothes members of the Indonesian military. When faced with the angry students questioning their presence at the university, the two military personnel left the campus and returned with their guns and four armed members of the territorial battalion (BTT). It is believed the soldiers then opened fire into the crowd of students, seriously injuring several. The soldiers were joined by members of battalions 744 and 511 and the Mobile Police Brigade (BRIMOB). It is believed they also opened fire on campus, attacking the main building. There were around 3000 students on the campus at the time, most of them on the second floor of the main building where they were trapped while the military continued shooting. ETHRC sources reported that some students received gunshot wounds and were also beaten with rifle butts and bayonets.[26]

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[24] "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials" and the "Code of Conduct for Law Enforcement Officials", UN General Assembly Resolution AG/34/169, 17 December 1979.

[25] For an explanation of when detention is arbitrary see pages 4-5 above. Details of Indonesia's obligations under the *United Nations Standard Minimum Rules for the Treatment of Prisoners* are also on page 5.

It is believed a total of seventeen students were arrested immediately following the confrontation[27] and another three disappeared. Eight of the detainees have now been released after being arbitrarily detained. Another six, **Bernandino Simao, Domingos da Silva, Francisco de Deus, Juvinal dos Santos, Silverio Baptista** and **Vicente da Cruz**[28] have been charged under Article 170 (violence against people and property) of the Indonesian Criminal Code (KUHP) for their alleged assault of three members of Battalion 511, Unit C, during the UNTIM incident. Their trial commenced on 11 February.

There are grave fears for the safety of **Abrao Benjamin, Domingos dos Santos** and **Duarte Fernandes de Araujo** who were reported missing by the University of East Timor after they were arrested during the confrontation. All attempts to locate them have so far been unsuccessful and their whereabouts is unknown.[29]

Others sustained serious injuries. **Joaquim Matetai, Albano Barreto, Adolfo da Costa and Abrao do Nascimento** sustained gunshot wounds and were treated for three days at the Wirahusada military hospital at Lahane, Dili, then transferred to Police Resort headquarters (POLRES) in Dili and later released. It is believed Bernardino Simao received gunshot and knife wounds to the arms and face and was also treated for three days at the Wirahusada hospital and then transferred to the provincial police command (POLDA) where he is still detained.

The Indonesian National Human Rights Commission (Komnas HAM) investigated the incident and concluded that excessive force was used by the security forces and that other human rights violations were committed. During a news conference in Dili, Mr Marzuki Darusman, deputy chairman of Komnas HAM stated:

> *Based on information from official and reliable sources, acts of violence, which were a violation of human rights, were found. For example, students suffered from gunshot wounds, were beaten up, and had their teeth broken, faces swollen, and legs injured and bruised due to being hit with solid objects.*

Komnas HAM also concluded that three people "disappeared" but that no one was killed.[30]

One unconfirmed report was received by the ETHRC, claiming that at least one injured student died as a result of injuries sustained but this report remains unconfirmed. The ETHRC is concerned that the three students who Komnas HAM concluded had "disappeared" may in fact have died from injuries sustained. As far as the ETHRC is aware, the Indonesian authorities have not announced plans to prosecute any of the members of the Indonesian military responsible for human rights violations.

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[26] ETHRC Urgent Action UA 26/97, 17 November 1997.

[27] See Appendix A for names.

[28] The ETHRC reported that Vicente da Cruz was released (UA 26/97 PR2, 27 November 1997) but according to a report from Amnesty International (AI Index ASA 21/88/97, 26 November 1997) he is still in detention.

[29] ETHRC UA 27/97PR2.

[30] Kompas, 24 November 1997. The three confirmed by Komnas HAM as "disappeared" are Abrao Benjamin, Domingos dos Santos and Duarte Fernandes de Araujo, mentioned above.

b) Other cases in East Timor

On 6 August, it is believed **Francisco Maria de Jesus**, 48, was arrested by members of the Indonesian military and taken to Colmera, Dili, where he was detained under suspicion of having links with FALINTIL. It is believed his family was not allowed to visit him in detention.

On 11 August, **José da Silva** was arrested by members of the Indonesian military and taken to an unknown prison in Dili. It is believed that da Silva was tortured in detention and that he died as a result. José da Silva was alleged to have been a messenger for two FALINTIL commanders and it is believed he was tortured to obtain information about them.

Also in August, **Geraldo dos Santos Henriques**, 34, was subjected to beatings, including beatings with rifle butts to his back, and was later hospitalized in Viqueque. It is believed that Henriques was travelling on a bus headed for Beaco when it was intercepted by members of Team Saka (a team of East Timorese people recruited into the Indonesian military), who ordered all the passengers off. Other Timorese youths who were passengers on the bus managed to escape.

At 5.00am on 15 August, **Alberto da Costa Freitas**, 14, **Bento Alves**, 32, **Jacob Soares**, 26, **Bernandino Soares**, 30, were arrested at the hamlet of Urluli, Leorema village during a military operation by members of Rajawali 2, Special Forces Command (KOPASSUS), battalion 713, KODIM 1637 Liquica, Koramil Bazartette, GARDAPAKSI and Special Intelligence Unit (SGI). They were accused of organising the ambush against the BTT 713 Post in the Leorema sub-village during which it is alleged that three Indonesian soldiers were killed. It is believed that they were detained at KODIM Liquica. Bento Alves, Jacob Soares and Bernandino Soares have subsequently been released but it is believed that Alberto da Costa Freitas may still be in detention.

On or about 22 August, **Gregorio Sarmento, Eduardo Sousa Pereira** and **Luis Lourdes**, were reported missing following their arrest in Dili. According to ETHRC sources, Gregorio Sarmento was arrested under suspicion of being a member of the Clandestine Resistance and taken to POLWIL in Comoro, Dili, for questioning. The other two were arrested under suspicion of collaborating with FALINTIL. As of 19 September, the whereabouts of all three men was still unknown but no further information is available.

Also in August, **Mario do Rego** and his wife **Augusta de Jesus** were arrested at Ailoe Laran, Dili, under the suspicion of belonging to the Clandestine Resistance. It is not known where they were detained or whether they are still in detention.

At 3.00am on 2 September, **Natalino Soares**, 35, was arrested at the hamlet of Nasuta, Ulmera village, Liquica sub-district. It is believed he was also accused of being involved in the ambush against BTT 713 Post in Leorema. It is not known where he was taken or if he is still in detention.

On 7 September, it is believed **Antonio Cardoso** and **Juvinal da Cruz** were arrested by members of battalion 744 at Urluli village, Bobonaro, under the suspicion of collaborating with the guerrillas. It is not known where they were detained or whether they are still in detention.

On 7 September, **José da Conceicao**, 30, **Abel Gouveia Leite**, 19 and **José Aca**, 22 were arrested in the village of Gumer, sub-district of Maliana, Bobonaro. Abel Gouveia Leite and José Aca were arrested by members of battalion 744 and accused of having links with the Armed Resistance. José da Conceicao was arrested at his home by members of Rajawali and battalions 713 and 613. He is believed to have been interrogated and tortured in order to extract information about FALINTIL. It is not known where the detainees were taken or whether they are still in detention.

On 11 September, **Sabino Barbosa Ximenes**, 25, from Soba village in Laga, Baucau District, was arrested in Dili by members of SGI (Special Intelligence Unit). The ETHRC is concerned that he may have been arbitrarily detained as it is not known whether he was charged under Indonesian law. It is believed Ximenes was accused by Indonesian authorities of being a member of the Clandestine Resistance and of having contact with FALINTIL. Sources have reported that on the day of his arrest, Ximenes was taken to a torture centre in Colmera, Dili (probably SGI headquarters), where he was subjected to electric shock, burnt with cigarettes, cut with razor blades and had his fingernails pulled out. He was then transferred to SGI headquarters in Baucau and subjected to intensive interrogation and further torture. Ximenes was later moved to POLRES headquarters in Baucau where it is believed he may still be in detention.[31]

At 4.00 am on 13 September, **Manuel Afonso**, 36, was arrested in the Dili suburb of Becora by four POLRES (Police Resort, sub-district police) intelligence agents, one of whom was identified as Sergeant Lino do Rosario. Sources have reported that prior to his arrest he was being persecuted by the security forces for allegedly founding and leading a new Clandestine Resistance group. It is believed he was being held under Articles 106 and 108 of the Indonesian Criminal Code (KUHP) for attempted "separatism" and for armed rebellion against the state. It is also believed that he was held under Articles 55, 56, and 110 of KUHP for planning and aiding the commission of a crime. He was taken at gunpoint to POLSEK (Police Sector, district police) headquarters and later transferred to POLRES. It is believed he is awaiting trial.[32]

On or about 17 September, **Juliao Soares da Silva**, 28, an employee of Bank Pembangunan Daerah from Gleno, Ermera district, disappeared after his arrest. It is believed that da Silva was arrested by members of SGI under suspicion of being a member of the Clandestine Front and taken to an unknown location.[33] The ETHRC received confirmation in November that Julio Soares da Silva had been located.[34] It is unclear how long he was held in custody or why he was arrested.

It is believed that on 5 October, members of the Rajawali battalion physically assaulted **Verissmo Jeronimo**, 30, **Luis dos Reis,** 25, **Goncalves Jeronimo**, 30, and **Pedro Jeronimo**, 30, in Lopupulu, Lautem district. The men were beaten, kicked, punched and hit with rifle butts. Pedro Jeronimo suffered the most and was beaten until he bled from his mouth and nose. It is believed the Indonesian authorities suspected them of having links with the East Timorese Armed Resistance and in particular that Verissmo Jeronimo's brother was a member of FALINTIL.

On 12 October, four intelligence officers from KODIM 1630 in Viqueque, 1st Sergeant Andreas, Luis Bertalo, Domingos Sa Viana and Antonio Leke-Funak arrested **Lourenco Soares**, 17, from the village of Uma-Quic. Soares was allegedly subjected to interrogation, torture and beatings. It is not known if he still in detention.

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[31] ETHRC UA 27/97, 1 December 1997.

[32] ETHRC UA 25/97, 21 October 1997.

[33] ETHRC UA 24/97, 20 October 1997.

[34] ETHRC UA 24/97PR, 24 November 1997.

On 13 October, military forces consisting of KOPASSUS (Special Forces Command) and Team MAKIKIT (East Timorese recruited into the Indonesian military) stationed in Viqueque launched an armed attack on the village of Clo Ba in the district of Viqueque. During the attack it is believed **Alvaro** (no surname), 18, from the village of Irabin de Baixo, was shot and his whereabouts was unknown. It is not known whether he died from the shooting or whether he has been located. According to ETHRC sources, many of the villagers escaped during the attack, however it is believed fifteen youths were arbitrarily arrested: **Duarte de Carvalho**, 20, **Eugenio de Sousa**, 23, **Agostinho Fernandes**, 19, **Eugenio Soares**, 24, **Paul Ximenes Pinto**, 21, **José Armando**, 20,**Virgilio Pinto**, 19, **Julio da Costa**, 23, **Martinho Pinto**, 19, **Anacleto Amaral**, 24, **Albino Pinto**, 21, **Jose Pinto**, 19, **Delfim da Costa**, 19, **Afonso Sarmento Pinto**, 20, **Armindo Mascarenhas**, 20.[35] They were subsequently released.

On 23 November, **Boaventura** (no surname), 18, **Cristiano Conjaka**, 23, **Gaspar da Silva**, 24, and **Rosa Sarmento**, 49, were arrested at their home in the hamlet of Karau Mate, in the Dili suburb of Becora, by soldiers and police personnel. It is believed they were arrested under suspicion of harbouring and assisting Bobby Xavier, who is alleged to have been involved in the killing of Corporal Alfred Siga in December 1996. No warrants were shown and it is believed they were subject to physical assault at the time of their arrests. The ETHRC is concerned that they may have been arbitrarily detained. Rosa Sarmento was released soon after her detention, while Boaventura, Cristiano Conjaka and Gaspar da Silva were detained at POLDA in Dili. It is not known whether they are still in detention or if they were charged.[36]

On 8 December, 18 year old **Elias Soares** was arrested in Manatuto, while on his way from Vemasse to Dili. It is believed members of KOPASSUS arbitrarily arrested Elias Soares and took him to KOPASSUS headquarters in Baucau, reputed to be a torture centre of the Indonesian military.

c) Demak Bomb Explosion and Detentions in Indonesia

On 14 September, five East Timorese students were arrested following a bomb explosion at a house in Demak, east Semarang, Java, where it is believed a group of East Timorese were manufacturing bombs. Following the explosion security forces visited the lodgings of all Timorese in the area, intimidating them and checking their identity. Five students were arrested: **Joaquim Santana**, 23, **Domingos Natalino Coelho da Silva**, 22, **Fernao Malta Lebre**, 21, **Ivo Miranda**, 20, and **Julio Santana.**[37]

Julio Santana was arbitrarily detained but later released due to lack of evidence,[38] while Joaquim Santana, Domingos Natalino Coelho da Silva, Fernao Malta Lebre and Ivo Miranda were charged under Article 1, Paragraph 1, of Emergency Law No 12 of 1951, for possession, storage and transport of explosives, for which the maximum penalty is death. It is believed the four students were also charged under articles of the Indonesian Criminal Code for arson and failing to report a crime.[39] The trials were due to commence on 9 February.

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[35] Lusa, 17 October 1997.

[36] ETHRC UA 28/97, 1 December 1997.

[37] ETHRC UA 23/97, 19 September 1997.

[38] ETHRC Urgent Action UA 23/97 PR, 13 October 1997.

Indonesian authorities claim the detainees are members of a unit called the Black Brigade (Brigada Negra), believed to be an offshoot of the Timorese Socialist Association (AST). It is alleged the Black Brigade was responsible for the bomb-manufacturing operation, that this was part of an East Timorese terrorist agenda and that the bombs were intended to be used against civilian targets in Indonesia and East Timor.[40] The four detainees have told their lawyers that they knew nothing about the bombs until the explosion in Demak.[41]

ETHRC sources have reported that the four students have been subjected to torture and ill-treatment, including electric shock, in order to extract confessions.[42] Fernao Malta Lebre was burnt with cigarettes during interrogation. The ETHRC remains concerned that they may be subjected to further pressure, and possibly ill-treatment or torture during the trial process. There are also concerns that the detainees have not been allowed ongoing access to their legal representatives.[43] The detainees were initially refused permission to see their lawyers on the grounds of 'state security', despite guarantees to legal representation contained in the Indonesian Criminal Procedure Code (KUHAP).[44] It was not until 5 December that they were finally allowed to see their lawyers and the meeting only lasted thirty minutes. It is believed that during interrogation by the police and public prosecutors, the defendants have not been accompanied by lawyers, a right also guaranteed under KUHAP.[45] During the trial, lawyers representing the four said that they had not been allowed access to their clients and the four were not informed of their legal rights.[46]

On 29 October, fifteen East Timorese students from the East Timor Students' Association (IMPETTU) of Semarang met with members of Commission "A" from the Central Java Regional Parliament, which is responsible for security issues. The students queried the legality of the arrest of the four detainees and voiced their protest that the detainees had been subjected to torture and ill-treatment, which is illegal under Indonesian law. They also demanded that authorities allow the detainees access to legal representation and to family visits. The meeting lasted ninety minutes and the authorities promised to answer the protests and demands.[47] Clearly these promises have not been met.

Other students were arbitrarily detained in relation to the bomb-manufacturing operation. In Solo, central Java, **José Cornelio Amaral**, 26, **Leao Maulato**, 26, **Alfredo Soares**, 24, **Benedito** (no surname), 25, and **Paulo Pinto**, 25, were arrested on 26 September. The five students were woken at 2.00am when members of Mobile Police Brigade (BRIMOB) came to search their house, although no search warrant was shown. The police allegedly found documents and underground newsletters, arrested the students, and took them Central Java Police Headquarters (MAPOLDA JATENG) where they were arbitrarily detained and interrogated. They were released two days later due to lack of evidence.

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[39] ETHRC Urgent Action UA 23/97 PR3, 9 January 1998.

[40] GATRA, 25 October 1997; ANTARA, 21 October 1997.

[41] Tapol report, 14 December 1997.

[42] ETHRC UA 23/97 PR2, 29 October 1997.

[43] ETHRC UA 23/97PR and UA 23/97PR3.

[44] KUHAP, Articles 54, 55 57.

[45] KUHAP Articles 54, 55, 57.

[46] SiaR, MateBEAN, 10 February 1998.

[47] SiaR, MateBEAN, 29 October 1997.

Also in Solo, another student called **Gil Paulo da Silva**, 23, was questioned by police about the whereabouts of Joao Bosco, another youth who was wanted by authorities in relation to the bomb-manufacturing operation.[48] Later, it is believed that Gil Paulo da Silva voluntarily informed the local police that Joao Bosco had stayed one night with him but Gil denied knowing about the bombs. Satisfied with the explanation, the police let him go. Then on 3 November he was summoned by police in Semarang for further questioning. He reported to the police as requested but this time he was taken into custody. He was detained for nearly two months at the Central Java Police Headquarters but charges were never brought against him and he was released on 31 December due to lack of evidence.[49]

On 15 September, two youths were arrested in Dili for their alleged involvement in the Semarang bomb-making operation. **Constancio Chantal dos Santos**, 21, and **Paulo Jorge Pereira**, 23, were arrested on 15 September as they arrived in Dili by ship, allegedly carrying a large quantity of home-made bombs and ammunition. [50] They have been charged with subversion and armed rebellion against the state and if convicted could face the death penalty.[51] It is believed two others were arbitrarily detained in Dili following the bomb explosion: **José Ximenes,**[52] a taxi driver who was at the harbour to pick up Constancio, and another man identified by Amnesty International as **Eduardo** (no surname).[53] No further information is available and it is presumed they were released after being detained for interrogation.

The ETHRC is concerned that Constancio Chantal dos Santos and Paulo Jorge Pereira have not had ongoing access to their legal representatives and that they may have been subjected to torture and ill-treatment. In a statement written by Constancio[54] he claimed that he has been subjected to torture during interrogation:

> *From September 15, 1997 at 9-10 AM to September 16, 1997 at 9:00 PM I was forced to confess to whom the letter from the Army Chief of Falintil Kay Rala Xanana Gusmao and the bomb I had carried should be given to. I replied I did not know. ...Because I kept saying I did not know, my chest and my face were beaten up and I was told to kneel down. My hands were pulled to my back and shackled. The intelligence agents and the police officials sat behind me and burnt my shackled hands with cigarettes. They kicked my ribs and my stomach. When I fell down, a commander of the SGI intelligence agent, a Batak person, (I do not know his name), stepped on my*

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[48] SiaR, MateBEAN, 22 December 1997.

[49] ETHRC UA 23/97 PR 3; Tapol, 14 December 1997.

[50] The indictment for Constancio alleged that he was arrested at Dili harbour on 15 September and found to be in possession of 22 bombs, 44 M16 bullets, an FN bullet, a notebook on how to manufacture bombs and four envelopes containing Rp 250,000 and several letters from Xanana Gusmao to FALINTIL.

[51] ETHRC UA 23/97PR.

[52] ETHRC UA 23/97 PR2.

[53] Amnesty International, AI Index 21/77/97, 26 September 1997.

[54] The statement was a demurrer (objections raised) dated 10 January 1997, addressed to the judge trying his case. It was written from inside Becora prison where Constancio is being held.

> *body repeatedly. Then I was told to stand on one leg for about 2-3 hours while answering their questions. If I said I didn't know, they would start kicking and beating me. They threatened to take me to the SGI Post to be given electric shocks. To avoid further torture and threats, I finally just followed the language of these SGI intelligence agents and the police.*

The trial of the two Dili detainees commenced in January 1998 and has already received considerable coverage in the Indonesian media. According to the prosecutor, the bombs were intended for killing members of the public and bombing vital installations in Dili. However, Constancio has denied the bombs were intended to be used against members of the public.[55] He claims that Xanana Gusmao had devised the strategy for bomb-making and that the bombs were intended for use in East Timor by the Armed Resistance. When authorities interviewed Xanana, he said that the East Timorese youths were manufacturing the bombs under his instructions for the sole purpose of arming members of FALINTIL in East Timor. He also denied that the bombs were intended for civilian targets.[56] Constancio has requested that Xanana be present during his trial, a request that has not, to date, been granted.[57]

Based on the evidence available, the claims that the bombs were intended for use against civilian targets appear to be unsubstantiated. Furthermore, there is no history of terrorism on the part the East Timorese Resistance movement. The ETHRC is therefore of the opinion that allegations from the Indonesian authorities of East Timorese terrorist activity should be treated with great caution.

d) Other East Timorese Students in Indonesia

Since the Demak incident, there has been a marked increase in violations against East Timorese students in other parts of Indonesia. It is believed many East Timorese studying outside the territory are under close surveillance by the Indonesian security forces.

On 29 October, in Surabaya, **Saturnino Gomes**, **Herman Gusmao**, **Ivo da Costa**, **Alves vas de Carvalho**, **Wilson Cobral**, **Carla da Costa**, **Luis Oliveira**, **Maria de Fatima**, **Domingos** (no surname), **Avelino Monis**, **Francelino Boavida**, **Juana Martins**, **Berta Gonsalves**, **Manual Reis**, **N. Rulana** and one other unidentified East Timorese student were interrogated, beaten and intimidated by members of the Indonesian military after the military broke up a meeting organized by East Timorese university students in Surabaya. Saturnino Gomes was beaten until his nose bled.

On 21 December, also in Surabaya, **Mario Soares Romaldo**, **José N. da Silva**, **Henrique da Conceicao**, **Pascoal da Costa**, **Nelson de Carvalho** and **Antonio Lopes** were arrested by masked members of the Indonesian security forces. It is believed the detainees were blindfolded and subjected to torture during interrogation. All six men were released nine hours later at separate locations and warned not to tell anyone of what had happened to them.[58]
Three days later, at 12.00am on the 24 December, **Raimundo Pereira**, 27, a university student at the Institute of Technology in Surabaya, was arrested on campus. He was arbitrarily detained and

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[55] Kompas, 15 January 1998.

[56] Xanana Gusmao was interrogated as a witness on 18 November 1997 at Cipinang Prison, Jakarta. PBHI, the Indonesian Association for Legal Aid, prepared a report about the interview, dated 19 November 1997.

[57] Kompas, 15 January 1998.

[58] ETHRC UN Report R 1/98, 8 January 1998.

tortured then was released at 2.00am on Christmas day. Since his detention Raimundo Pereira has suffered severe mental disturbance and is believed to have returned to East Timor for treatment.[59]

In Semarang, **Elizio Pinto Guterres Soares** (also known as Mito), 25, an East Timorese student, was arrested and tortured by members of the Indonesian security forces on 1 January 1998. Mito was arrested at approximately 2.30 am during a New Year's eve party which the East Timorese students were holding at an auditorium at the University of Diponegoro, located opposite the police headquarters. It is believed that three undercover police agents (who were reportedly drunk) entered the party at 2.00 am and began to provoke the students. It is believed that Mito, who was responsible for security at the party, attempted to restore calm. Two of the three police agents left the party and returned shortly with four members of the BRIMOB who were carrying weapons. An argument broke out between some students and the police when the police ordered the party to be stopped, claiming it was disturbing the Muslims during their fasting month. The students said that they had a permit issued by the police commander to continue the party until 3.00am.

According to an ETHRC source:

> *the police threatened to mobilize the Muslims to attack the Timorese. The situation was chaotic and the students started to fight the police. The police shot several times into the air for warning and some women fainted. The students were finally calmed down and then the police took Mito to be questioned concerning the incident. His colleagues tried to protect him, but then they let the police take him when police threatened them with guns.*

Mito was questioned at the police headquarters by the police and soldiers from battalion 401 and released the following day without any charges being brought against him. An ETHRC source reported that during interrogation, Mito was subjected to torture: "An army soldier kicked on his side several times until he broke one of his ribs and collapsed". The source also reported that Mito may have been targeted by the police for arrest and torture because of his alleged participation in demonstrations. Mito was picked up by his friends the next day and taken to Elizabeth Catholic hospital for treatment. He was discharged seven days later.[60]

e) Disappearance and ill-treatment of Lucas da Costa

Lucas da Costa, 49, an East Timorese professor teaching in Surabaya, disappeared on 23 December after he left home to go to work at the Catholic University. He never arrived at the University and did not return home. Following his disappearance, da Costa's family made inquiries with the Indonesian military authorities but were not able to locate him. The reason for his disappearance is still not known but sources have reported that he may have been arrested under suspicion of involvement in the East Timorese Resistance.[61]

On 14 January 1998 Lucas da Costa was finally allowed to return home.[62] There is little information about what happened to da Costa while he was missing but it is believed he was arbitrarily detained by Indonesian security forces in Surabaya. It is believed that during his detention, da Costa was subjected to psychological pressure and possibly torture, and grave fears are still held for his physical and psychological well-being. After his release, he appeared to be traumatised by his experience. No further information is available as da Costa is not willing to talk about what happened to him. One source said: "He looks so scared and does not go anywhere but locks himself in his house with all curtains closed." The ETHRC believes he may have been pressured into not revealing details of his arrest and treatment while in detention.[63]

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[59] Ibid

[60] ETHRC UN Report R 2/98, 15 January 1998.

[61] ETHRC UA 30/97, 29 December 1997.

[62] ETHRC UA 30/97PR, 19 January 1998.

2. EXTRA-JUDICIAL EXECUTIONS

In its August 1997 report, the ETHRC reported that 49 East Timorese were killed extra-judicially during the first six months of 1997.[64] There are fewer cases of apparent extra-judicial executions in the second half of 1997, but they highlight the persistence of three worrying trends.

First, the lack of adequate investigations into the deaths of David Alex (in June 1997) and José da Silva (in August 1997) while in the custody of military personnel raises concerns over possible extra-judicial executions by the security forces. Second, the killing of civilians in rural areas, allegedly by military personnel, also fuels this concern. Third, the killing by civilians of other civilians who were allegedly collaborating with the military, highlights the consequences of the military's strategy of involving East Timorese extensively in their para-military and intelligence operations.

Under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, extra-judicial executions and deaths in custody due to torture or ill-treatment by security forces constitute grave violations of the right to life.

a) Arrest and Alleged Death of Commander David Alex

On 25 June, **David Alex**, second in command of FALINTIL, was arrested together with five other men in the village of Caibada, near Baucau, by members of Special Forces Command (KOPASSUS).[65] It is believed Alex was suspected by the military of planning the 31 May 1997 attack on an Indonesian army truck in Quelicai and other FALINTIL attacks in and around Baucau. Indonesian authorities claimed that Alex died from injuries sustained in an armed clash at the time of his arrest. However, there were conflicting reports from the Indonesian military as to the circumstances of Alex's death and the circumstances remain very unclear. It is not known what happened to Alex in the period between the shooting and his death, or why he was transported to Dili, instead of being treated immediately in Baucau.

Concerns have also been raised by Alex's prompt burial on 26 June in Dili. East Timorese sources reported that the military refused to return the body to David Alex's family and also refused their request to open the coffin at the cemetery during the funeral service. However, the Indonesian military has denied that the family's request to see the body was refused. Authorities claim the family was shown photos of Alex, allegedly taken after his capture and death, and it was reported that they were satisfied with the account by the military of Alex's death. However, the ETHRC believes that Alex's family may have been under pressure to accept the military version of events rather than demand that the authorities exhume the body for the purposes of identification and autopsy.

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[63] ETHRC UA 30/97PR.

[64] For details see ETHRC Bi-annual Report, August 1997. Three of these, were subsequently confirmed as being killed by FALINTIL. See page 33 for details.

[65] ETHRC UA 16/97 and UA 16/97PR.

There has been no independent investigation into the circumstances of the death of Commander David Alex. The ETHRC and other international human rights organisations have called on the Indonesian government to allow an independent, impartial investigation into his death but it appears no investigation will take place as international human rights monitors are not allowed access to East Timor.

No further information is available about **José Antonio Belo, Manuel "Loke Matan", Gil da Costa, Guilherme dos Santos** and a fifth man who is either **José Mendonca** or **Mario da Costa** (his identity is unconfirmed) who were arrested with David Alex. It is believed four of the men were taken to KOPASSUS Headquarters in Baucau (known as the "Rumah Merah" or Red House) which is reputed to be a torture centre of the Indonesian military. Guilherme dos Santos was probably taken to SGI Headquarters in Dili. It is believed the men have all been subjected to torture and are at serious risk of further torture if they are still in detention.[66]

b) Other Extra-judicial Executions

On 13 June, it is believed **Adao Rodrigues**, 24, was shot dead by members of Battalion 721 in Mau-Bar-Hata, between the fields of "Fatrui-Lau/Lequidoe" and "Haturasa" in Remexio, Aileu District, while on his way to tend to his fields.

On 11 August, **José da Silva**, originally from Ossurua in the Viqueque district, was arrested by members of the Indonesian military and taken to an unknown prison in Dili. It is believed he died as a result of torture in detention.[67]

On 17 September, it is believed **Egas Manuel Guterres** and his wife **Florentina** were killed in their house in Venilale, Baucau, by members of the Indonesian secret police.

On 11 October, a sixty-year old East Timorese man, **Doli-Para**, from the village of Ailebere in the sub-district of Iliomar, Lautem, was allegedly killed by members of the Rajawali forces. It is believed that on the morning of 11 October, he went to tend his field at Asonomar, about 4 kilometres away, and there he was killed. His body, which had already begun to decompose, was discovered two days later by his family, buried in a shallow grave of rocks and tobacco leaves. Later, the Indonesian authorities said the Resistance guerillas were responsible for the death, a claim denied by local sources.

c) Alleged Executions by Civilians

On 30 July, **Lino Xavier Nunes**, 24, was arrested at the Chinese cemetery in Taibessi, Dili. It is believed he was arrested by a man called Mateus Antonio under suspicion of involvement in the alleged January 1997 killing of Mateus Antonio's son, a member of the GARDAPAKSI. He was taken to the Territorial Battalion post at Taibessi in Dili before being transferred to POLRES. It is believed he was being held in relation to the killing under Articles 338, 170 and 351(3) of KUHP. It is believed he is now detained at Becora prison, awaiting trial.

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[66] ETHRC UA 16/97PR.

[67] See page 16 above for details.

On 7 October, it is believed **Ardilino da Silva**, 36, and **Acasio de Oliveira**, 17, were killed during a fight that broke out prior to a religious service on Mount Ramelau, Ainaro. There are conflicting reports as to the circumstances leading up to the fight and subsequent deaths. According to Resistance sources, as reported by the media, the incident was provoked by Ardilino da Silva, an East Timorese man allegedly paid by the Indonesian Intelligence as part of a campaign to discredit the East Timor Resistance.[68] In fact, some sources have linked Ardilino da Silva to the GARDAPAKSI which recruits East Timorese youths to take part in pro-integration activities.

One version of the events was that the fight broke out when da Silva tried to break through a line of Catholic boys scouts in order to get to the spot where Bishop Belo was due to place a statue of the Virgin Mary. When his path was blocked by the scouts, da Silva allegedly produced a sharp weapon and stabbed two boy scouts. One scout, Acasio de Oliveira, died later in hospital, while the other sustained injuries. Da Silva was in turn beaten to death by the crowd.[69] Another version was the Indonesian military account which stated that the trouble broke out when da Silva tried to raise a banner bearing the FRETILIN flag.[70] He was blocked by the scouts and allegedly stabbed two of the scouts, killing one. Da Silva was then beaten to death by onlookers.[71]

3. Convictions, Unfair trials and Torture in Detention

Several of the high-profile cases from late 1996 and early 1997 were in court in late 1997; some have resulted in convictions. Four patterns stand out in these cases. First, some of those accused of killing Corporal Alfred Siga in December 1996 and some of those accused of participating in the March 1997 Mahkota hotel demonstration were tortured to extract confessions, thus putting in doubt the evidential grounds for their convictions. Second, many of the defendants in the Mahkota case have been charged under the "hate-sowing" articles of the Indonesian Criminal Procedure Code (KUHP). Article 154 prohibits "the public expression of feelings of hostility, hatred or contempt toward the government" and therefore serves as a basis for prosecuting those accused of advocating separatism or criticising the Indonesian occupation of East Timor - even though the occupation is illegal under international law. Third, the defendants often do not have access to adequate legal representation, a right protected under Indonesian law. Finally, for the first time since the invasion in 1975, the death sentence has been handed down in two cases: the ETHRC condemns the use of this sanction anywhere, but particularly in East Timor given the weakness of the judiciary and the problematic nature of the Criminal Code under which defendants are convicted.

The right to due legal process, including adequate access to legal representation, is enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political

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[68] LUSA, 10 October 1997.

[69] AFP, 9 October 1997; Kohen, Arnold, The International Catholic Weekly, 25 October 1997.

[70] Reuters, 8 October 1997; AFP, 9 October 1997.

[71] Reuters, Ibid

Rights. This right is also provided under Indonesian domestic law in the provisions of the Indonesian Criminal Procedure Code (KUHAP).[72]

a) People Detained for 24 December 1996 Violence

Thousands of East Timorese gathered to welcome Bishop Belo home on 24 December 1996, after he received the Nobel Peace Prize in Oslo. Violence broke out at the gathering when the crowd became angry at the presence of armed security force personnel. During the conflict, a group of East Timorese beat a member of the Indonesian military, Corporal Alfred de Santo Siga, to death.[73]

A number of East Timorese have now been tried for their alleged involvement in the 24 December violence. On 13 September 1998 in Dili, **Zill Gilmartins**, 22, was sentenced to 11 months in jail for his alleged involvement in the killing of Siga.[74] The prosecutor alleged that Zill and five others[75] attacked and killed Corporal Siga.

Earlier in the year, others went to trial for their involvement in the 24 December violence. They were sentenced and have already served their sentences and been released.[76] They were charged under Articles 170 (violence against people and property) and 351 (ill-treatment of people) of the KUHP. One of those convicted was **Baltazar Sebastio Henrique Belo**, 20, who appeared in court between April and May. He was represented by Aniceto Lopes from Yayasan Hak (Human Rights Foundation), an independent legal aid organisation. Baltazar Belo had been arrested on 26 December 1996 in Dili and detained at POLDA, where it is believed he was tortured and beaten in order to extract a confession about his involvement with the killing of Siga.[77]

The ETHRC also received reports that at least five other detainees, **Jose Nuno Lopes**, 21, **Gregorio Jeronimo Sequeira**, **Manuel de Araujo Barreto**, 21, **Eduardo Guterres Miguel**, 21, and **Luis Alfonso**, 19, were subjected to torture in detention. Human Rights Watch /Asia gave a detailed description of the methods of torture used against Luis Alfonso.[78] He had been arrested without a warrant on 28 December under suspicion of having beaten up a suspected intelligence agent named Tukiran, as well as the district police commander.

On 22 November, another youth, **Bobby Xavier**, 23, was arrested in Dili under suspicion of involvement in the Alfred Siga killing. He was detained at POLDA in Dili, and it is believed he has been denied access to members of his family as well as to legal representation. He has now been charged and will go to trial in March.[79]

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[72] See footnotes 7 to 10 for details of some of the rights protected.

[73] For more Information on the Alfred Siga case, see the ETHRC Annual Report, February 1997, op cit.

[74] ANTARA, 15 September 1997, confirmed by ETHRC sources.

[75] The other five were probably: José Nuno Lopes, Gregorio Jeronimo Sequeira, Baltazar Belo, Manuel de Araujo Barreto and Eduardo Guterres Miguel, but this is unconfirmed.

[76] See Appendix B for names and details of sentences.

[77] This allegation, if true would be a clear breach of Article 117 of KUHAP, which states that duress of any form may not be used by investigating officials to obtain information from a suspect.

[78] HRW/Asia, September 1997, op cit.

[79] ETHRC UA 28/97, 1 December 1997.

b) People Detained for Mahkota Hotel Demonstration

On 23 March 1997, about 250 East Timorese youths participated in a peaceful demonstration during the visit to Dili of Mr Jamsheed Marker, Special Representative of the UN Secretary-General. The youths marched from the Motael Church to the Hotel Mahkota where Mr Marker was staying. The march was observed by Indonesian security forces but was allowed to proceed until some of the youths entered the hotel where they were met by a representative of Mr Marker and handed him a petition protesting the Indonesian occupation of East Timor. It is believed that immediately after the representative returned to his room, soldiers from Battalion 744 and members of the police blocked all exits and began indiscriminately firing at the youths and beating them with bayonets and rifle butts, forcing them to disperse. Some of the youths broke windows in order to escape and many had to seek refuge at the Motael Church and at a nearby convent.

The ETHRC reported that at least fifty-one East Timorese people sustained injuries, including injuries from gunshots, bayonets and broken glass. Thirty-three East Timorese youths, including two women, were detained at Becora prison and charged for their alleged involvement in the demonstration.

Komnas HAM has strongly criticized the level of violence used by the security forces to deal with the protestors during the Mahkota hotel demonstration. Two members of Komnas HAM visited those detained at Becora Prison and those under arrest at the military hospital and confirmed publicly that police attacked protestors with sticks and also kicked and punched them. The 24 people detained in Becora Prison had all received injuries: "some with swollen eyes, mouths, backs and chests. Some haven't eaten for four days because they can't do it as the result of the beating." [80] Commission member Albert Hasibuan said "Law enforcers in East Timor should put the law above anything else in handling any affairs; the law has not been enforced as people expect." [81] As far as the ETHRC is aware, the Indonesian authorities have not announced plans to prosecute any of the members of the Indonesian military responsible for these human rights violations.

The ETHRC received reports about several of the detainees being subjected to torture. **Agusto Raimundo Matos**, 21, stated in an affidavit given to his lawyer that while still at the Mahkota hotel he was beaten with a piece of plywood, an iron pipe and a piece of rattan, thrown into a car where he was continuously beaten until he became unconscious. At the local police station he was interrogated about who organised the demonstration and who was present. He was then forced to say that it was he who brought the banners and flag used in the demonstration and that he had been one of those who had broken windows at the hotel. He said he was repeatedly beaten and burned with lighted cigarettes. He was then held overnight at the provincial police command POLDA. The next day, he was taken back to the district command and from there to Becora prison.[82]

Miguel Alves 29, arrested at the same time was burned with lighted cigarettes while being questioned in the district police command; **Luis de Fatima Pereira**, 20, was cut with a razor, and **Domingos da Costa**, 21, lost a front tooth from being kicked in the face.[83] It was also alleged that two female detainees, **Celina da Costa**, 20, and **Olga Quintao Amaral**, 19, were severely beaten and raped by members of the Indonesian military.[84]

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[80] Reuters, 29 March 1997

[81] Jakarata Post, 29 March 1997

[82] Human Rights Watch/Asia, op cit, p.8.

[83] Ibid

The thirty-three detainees are being tried in three separate cases involving three, sixteen and fourteen people respectively.[85] The trials began in July 1997 and the group of three detainees has already been sentenced. **Marito Brafas Soares**, 21, **Cancio Antonio Henrique Guterres**, 26, and **Alberto da Costa**, 22, were accused of publicly demonstrating hatred towards the Indonesian government under Articles 154 and 55.1 of the Indonesian Criminal Code (KUHP) and have each been sentenced to one year imprisonment.[86] The ETHRC is concerned that they may have been convicted solely for the peaceful expression of their views as Article 154 is one of the repressive "hate-sowing articles" contained in the Indonesian Criminal Code, frequently used by the Indonesian authorities to suppress dissent.

Another fourteen of the detainees have been charged under KUHP Articles 154, 155, 216 and 55.1 with publicly showing hatred towards the Indonesian government and disobeying a command by the authorities. The Dili District Court commenced the trial for the fourteen on 30 July.[87] According to ANTARA, the Indonesian news agency, the prosecution accused the fourteen of publicly advocating "separatism". The prosecution said the defendants had carried and displayed banners calling for East Timor's independence and also shouted separatist slogans.[88] It is believed that the Indonesian government prosecutors are asking the Dili District Court to hand down a sentence of one year imprisonment for each the fourteen.[89] It is believed Indonesian prosecutors will also seek the same penalty for the other sixteen detainees[90] who have been charged with causing serious bodily harm to others (KUHP Article 354) and aiding in a crime (KUHP Article 56).

In August 1997, the ETHRC received information that another three East Timorese people, **Angela** (no surname), **Tomas** (no surname) and **Zelia** (no surname), employees of the Mahkota hotel, are also currently on trial in Dili in relation to their alleged involvement in the demonstration.

c) People Detained for BRIMOB Headquarters Assault

The 29 May 1997 Indonesian election was accompanied by a series of armed attacks by FALINTIL on military and police targets in East Timor, resulting in over forty people being killed, including members of the police and military, members of FALINTIL and East Timorese civilians.[91]

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[84] As already reported in the ETHRC Bi-Annual Report, August 1997, op cit.

[85] AFP, 10 July 1997; See appendix B for names and charges.

[86] Tapol Bulletin No.144, December 1997.

[87] AFP, 31 July 1997; See appendix C for names.

[88] ANTARA, quoted in report by AFP, 31 July 1997.

[89] Reuters, 27 August 1997.

[90] Ibid

[91] See ETHRC, August 1997, op cit.

One of the attacks was the daring assault on the Mobile Police Brigade (BRIMOB) Headquarters in Bairo Pite, Dili, on the night of 28 May.[92] The assault was launched by a group of East Timorese and resulted in one policeman being killed and four other police being wounded. At least twenty-nine East Timorese were charged for their alleged involvement in the assault[93] including **David Dias Ximenes**, who was accused of masterminding the attack.

The trial for David Dias Ximenes commenced on 23 January 1998 and is still continuing. In addition to the allegations that he planned the BRIMOB assault, he is also accused of being the mastermind of Resistance activities between January 1994 and May 1997. In particular, he has been accused of organising the 1996 Christmas Eve demonstration in Dili, in which Alfred Siga was killed, organising the Mahkota Hotel demonstration in March, as well as receiving correspondence from Xanana Gusmao, the jailed East Timorese Resistance leader.[94]

The trials for another five East Timorese, accused of involvement on the BRIMOB assault, began on 10 November. The five are **Jeremias da Costa**, **José Mali Amaral**, **Ernesto Rodrigues Martins**, **Akau da Costa** and **Francisco Magno**. The men were charged with attempting to undermine the Indonesian government and could face sentences of up to life imprisonment. The ETHRC is concerned that they may not have been allowed proper access to legal representation as required by Indonesian law.[95] Three lawyers were to have represented the accused in court, but only one was allowed into the session. Court officials alleged that the others did not have permission to practice in East Timor.[96]

Others were arbitrarily detained. On 31 May, **Angelo Paiceli Ribeiro**, 31, was arrested in Dili and kept as a hostage for his two older brothers who were thought to be involved in the 28 May assault on the BRIMOB (Mobile Police Brigade) headquarters. Police knew he was not involved in the assault but held him at the provincial police headquarters in Dili until 4 July. **Filomeno da Costa** was arrested at the same time because some of those believed to have been involved in the BRIMOB attack were members of a martial arts group that he had founded. Both men were arrested by a combined team of BRIMBOB officers and members of SGI. No warrants were issued for their arrests.[97]

On 13 June, **Alexio Cobra**, 32, was arrested by members of BRIMOB and SGI, aslo under suspicion of participating in the BRIMOB attack. It believed he was arbitrarily detained and has probably been released.

On June 15, **Domingos Soares**, 18, and **Cerilio Gusmao**, 29 were riding a motorcycle on the way to a wedding when the motorcycle ran out of gas in front of a BRIMBOB barracks in Dili. The two got off and started to push it when they were arrested by BRIMOB, apparently thinking the two were going to mount an attack. Domingos was carrying a pocket knife as he usually did. The two were taken to police headquarters where they were severely beaten. Cerilio was released after three days. Domingos remained in custody because of the knife and police told his family they would release him for an undisclosed amount of money.[98]

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[92] ETHRC UA 12/97, 4 June 1997.

[93] See Appendix D for names and charges.

[94] AFP, referred to in Tapol report, 26 January 1998.

[95] KUHAP Articles 54, 55 and 57.

[96] Tapol Bulletin No. 144, December 1997.

[97] HRW/Asia, September 1997, op cit.

d) Death Penalty for Quelicai Assault

Two East Timorese men, **Luis Maria da Silva**, 57, and **Francisco da Costa**, 36, were sentenced to death on 11 December 1997 after being tried and found guilty by the Baucau District Court of murder, rebellion (Article 108 KUHP) taking part in subversion with the aim of separatism (Article 106) and illegal possession of firearms (Emergency Law no 12 1951).[99]

The convictions relate to the men's alleged involvement in the 31 May ambush in Quelicai, Baucau district, in which members of FALINTIL attacked a truck carrying Indonesian military and police personnel. The attack was part of the wave of violence which surrounded the Indonesian election. During the ambush, a grenade was thrown into the truck and thirteen security personnel were burnt to death, while another four Indonesians were shot dead trying to escape. Six policemen and one soldier sustained serious injuries. The Indonesian military launched an intensive operation in Quelicai in response to the assault, resulting in the arrest of at least 100 East Timorese people. It is believed most of them were arbitrarily detained.[100]

The ETHRC is concerned that the trials of Luis Maria da Silva and Francisco da Costa may not have met with international standards for fair trials. It also appears that the trials may not have complied with the relevant provisions of the Indonesian Criminal Procedure Code (KUHAP). Under Article 55 of KUHAP, prisoners have the right to choose their own lawyers, but it is believed Luis Maria da Silva and Francisco da Costa were defended by court appointed lawyers as their families were too afraid to appoint their own lawyers. It is believed the men may not have had ongoing access to their lawyers throughout the trial process, a right guaranteed under Articles 54 and 56 of KUHAP. The two East Timorese men are believed to have lodged appeals against the convictions.

This is the first time since East Timor was occupied by Indonesia in 1975 that the death sentence has been used in East Timor, and is a new development in East Timorese sentencing which has raised great concern internationally.

Others have also been sentenced or are awaiting trial.[101] The Indonesian media reported that on 19 December, **Muhammad Amin**, 19, (believed to be an East Timorese), **Fortunato Ximenes**, 31, and **Alvino Freitas**, 19, were sentenced to seventeen years imprisonment for their alleged involvement in the grenade attack. The men were found guilty by the Baucau District Court of subversive acts against the Indonesian government.[102] The three defendants were represented by the Trisula Legal Aid Institute (LBH), a military legal aid group. The ETHRC is concerned that they may not have been represented by lawyers of their own choice.

Up to fifteen other East Timorese people, who are still unidentified, are also being tried in four separate trials for the same incident. They are also being represented by the Trisula Legal Aid

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[98] Ibid

[99] ETHRC UA 29/97, 23 December 1997.

[100] ETHRC UA 17/97, 27 June 1997.

[101] See Appendix E for names of people sentenced or on trial.

[102] Kompas, 22 December 1997.

Institute and the ETHRC is concerned that the men may not be receiving fair and adequate representation. If convicted, most could face up to twenty years in prison. Two of the defandants are believed to be **Lodewijk Manuel de Armento**, 29, and **Francisco de Jesus Coreia**, 32. Indonesian prosecutors have accused them of planning and taking part in the 31 May ambush and are seeking the death penalty against them.

4. Restrictions on Freedoms of Association and Expression

Several of the cases described in the sections above involve restrictions on the freedoms of association or expression. For example, the interruption by security forces of a gathering of East Timorese students in Java, even though they had a valid permit to hold their gathering, constitutes a violation of the freedom of association. The arrest of East Timorese for expressing their peaceful opposition to Indonesian rule, and their conviction under the "hate-sowing" articles of KUHP, constitutes a violation of the freedom of expression. These cases were mentioned earlier because they also involved other violations such as arbitrary detentions and torture. The cases described below have not led to such abuses but they do constitute violations of fundamental freedoms and could lead to more severe violations in the near future.

a) GRPRTT

Manuel Carrascalao, the Chairman of a newly formed political movement, the Movement for Reconciliation and Unity of the East Timorese People (Gerakan Rekonsilisasi dan Persatuan Rakyat Timor Timor or GRPRTT), and up to twenty-one members of the organisation have been threatened with arrest and have been subjected to harassment and intimidation.[103]

The GRPRTT was established in October 1997 and consists of several Timorese political leaders, including some who in 1975 supported the integration of East Timor in Indonesia. These leaders formed the GRPRTT because they have become disillusioned by the level of human rights violations perpetrated by the Indonesian security forces in East Timor and the lack of participation by East Timorese in the government. The aim of the organisation is to mobilise the people of East Timor to resolve the conflict through peaceful dialogue.[104]

In December, an arrest warrant for Manuel Carrascalao was issued by the Governor of East Timor, Abilio Soares. The arrest warrant has not been carried out, apparently because the authorities are not in agreement about the best course of action to take. Governor Abilio Soares has now banned the GRPRTT, criticising it for being opposed to integration.[105] Soares reportedly said the GRPRTT is a "separatist organisation" and that they "have to be punished."[106] Major-General Syahrir, East Timor military commander has voiced the military's opposition to the GRPRTT, stating that the military will take all necessary measures to prevent the group from exerting influence in society.

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[103] Amnesty International, AI Index: ASA 21/06/98, 27 January 1998.

[104] LUSA, 12 January 1998.

[105] ANTARA, 16 December 1997.

[106] SiaR, MateBEAN, 16 December 1997.

On the 10 January 1998, Manuel Carrascalao, **Maria do Carmo Quintao** and **Francisco Lopes de Carvalho** and eighteen others were summoned for questioning by the police in Dili. They refused to go and issued a statement rejecting the summons and demanding an open dialogue between all factions in the East Timor conflict. A second summons has since been issued, and the Chief of Police, Colonel Atok Rismanto, has threatened to use force to bring the GRPRTT members for questioning if they refuse to answer the summons.[107] It is believed Manuel Carrascalao has been warned by friends to beware of a possible murder attempt against him,[108] and other members of the GRPRTT have been subjected to harassment.[109]

b) IMPETTU

On the 12 November 1997 in Yogyakarta, the East Timor Students' Association (IMPETTU), an East Timorese student organisation set up in the 1980s, organised a demonstration outside the local legislative assembly to commemorate the sixth anniversary of the Santa Cruz Massacre. The event was attended by 200 East Timorese students. The event was watched closely by security forces and it has been reported that the military are considering liquidating IMPETTU because it has become openly hostile to the Indonesian occupation of East Timor.[110]

5. Violations by FALINTIL

Several NGOs have documented cases of violations of international humanitarian law committed by FALINTIL combatants in the first half of 1997. The National Council of Maubere Resistance (CNRM) has accepted responsibility for some of these cases. The Indonesian military has alleged that FALINTIL is responsible for other violations in 1997, but these allegations remain unsubstantiated. The ETHRC believes some of these allegations may be untrue but have been used by the Indonesian military as propaganda.

As a non-state force, the Resistance is not a party to international human rights instruments but is normatively bound by the 1949 Geneva Convention and its protocols, under which attacks against civilian targets, acts of terrorism and forced military recruitment, for example, are proscribed. The ETHRC condemns all the substantiated violations of international humanitarian law and calls on the Resistance to avoid injuring or targeting civilians in its operations.

a) Substantiated Allegations

On 27 June the National Council of Maubere Resistance (CNRM) accepted responsibility on 27 June for the 28 May killing in Lospalos of a teacher called **Castelho**, his three children, another teacher called **Gregorius Kedang** and Kedang's wife and adopted son. In its September 1997 report, Human Rights Watch/Asia (HRW) reported that Castelho, 42, who was allegedly working for Indonesian intelligence services, was watching television with his family and some school teachers from Eastern Indonesia (non-Timorese) when East Timorese guerrillas vandalised the satellite dish. When Castelho and the others went outside to investigate, they were confronted by the guerrillas who asked them why they had signed documents in favour of integration and then shot Castelho and his children. The others tried to run away but could not escape and were also shot. In addition to the seven civilians killed, three other teachers were wounded, **Agus Berek**, 41, **John Minesa** and **Hengky** (no surname). According to HRW, on the same day the guerillas also killed a Balinese transmigrant at a transmigration centre in Muapitini.[111]

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[107] AI Index: ASA 21/06/98.

[108] LUSA, 29 December 1997.

[109] Timorese Democratic Union (UDT) Media Release, 4 December 1997.

[110] Tapol Bulletin No 144, December 1997, p.2.

CNRM also admitted that FALINTIL guerrillas were responsible for the deaths of **Miguel Baptismo da Silva**, 54, and his wife, **Du-Lequi**, on 28 May in Baucau.[112] Da Silva was believed to have been working for Indonesian intelligence and was the head of the district parliament from 1987 to 1992. HRW reported that the couple were shot dead by FALINTIL guerrillas either in their home, or in their car.[113]

HRW also reported that that earlier in the year, in February, **Amadio Pinto**, 30, who had been accused of being a collaborator, was killed by FALINTIL. On February 26, on his way home from the village of Laivai, Pinto was accosted by men identified by witnesses as guerrillas but he managed to escape. The following day he was reportedly sent to Laivai by a joint team consisting of KOPASSUS and Team Alfa to monitor the youths there. On his way home he was ambushed by guerrillas and taken to a nearby forest and killed. His body was found one week later. A local source told HRW that the villagers knew Pinto had been killed by the guerrillas but were afraid to report to the local authorities as they feared reprisals from the guerrillas.[114]

b) Unsubstantiated Allegations

Other allegations that FALINTIL was responsible for further civilian killings are unsubstantiated and were based mostly on reports from Indonesian military sources. The ETHRC has not been able to confirm any of the allegations and believes that some of the allegations may in fact be untrue. The ETHRC is continuing to investigate these cases.

On 24 September, the Indonesian military, as reported by Agence France Press, claimed that three East Timorese farmers were shot dead by FALINTIL in the village of Buicaren in Viqueque.[115]

Then in late September, the Indonesian military claimed that FALINTIL had killed five Indonesian soldiers and up to seven civilians in two attacks around a construction site in the village of Kairua, Manatuto district. AFP reported the Indonesian military version of the event, reporting that the military Commander, Colonel Sidabutar, said that armed FALINTIL members attacked a truck carrying civilian workers, killing five men, and later attacked a military vehicle, killing five soldiers and another two civilians.[116] AFP said a Dili resident confirmed the killings but said that only one civilian had died in the second attack. The ETHRC does not condone any acts of violence against innocent civilians; however the Indonesian military version of the events has still not been substantiated and the ETHRC is continuing to investigate the case.

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[111] HRW/Asia, September 1997, op cit.

[112] CNRM report dated 3 June 1997.

[113] HRW/Asia, September 1997, op cit.

[114] Ibid

[115] AFP, 3 October 1997.

[116] AFP, Jakarta, 22 September 1997.

On 2 October, two school teachers, **Jacinto da Piedade**, 31, and **Julio Pereira**, 34, were shot by masked attackers in Venilale, Baucau district. Jacinto da Piedade is believed to have died as result of his wounds. Yet it is not clear whether Julio Pereira also died, as there are conflicting reports. According to the Indonesian military, Pereira survived a gunshot wound to the head. ANTARA, the Indonesian news agency quoted a member of the Indonesian Human Rights Commission who accused FALINTIL of killing the two men.[117] However, José Ramos-Horta issued a press release denying the allegation that the Resistance was responsible for the deaths, stating that the only sources of the news were the Indonesian military and the state controlled ANTARA. Ramos-Horta said the murders were deliberately committed by Indonesian security personnel to discredit the East Timorese Resistance.[118]

On 3 December, the bodies of **Imersio** (no surname), 20, **Fernando** (no surname), 33, **Patrisio** (no surname), 24 and **Bendito** (no surname), 21, were discovered in the village of Sare, in the Maubara sub-district, Liquica. It is believed they were tortured before being killed. One report said the four were "Apparently murdered brutally, their legs and hands tied by ropes. By the look of their wounds, they must have been tortured badly before the murderers finished them."[119] East Timor military commander, Colonel Slamat Sidabutar, told Reuters that the victims were members of Mudika (a Catholic youth group) and that FALINTIL guerrillas were responsible for the killings.[120] However, Bishop Belo denied that the victims were part of Mudika and stated that there was no confirmation about who was responsible for the deaths. Bishop Belo said it would be wrong to blame the Resistance and called for an impartial investigation into the killings.[121] Local sources expressed doubts about the military version of events.[122]

Also in December, East Timor Chief of Police, Colonel Atok Rismanto, accused FALINTIL guerrillas of killing **Manuel Soares**, 35, in the village of Patuoli. Colonel Rismanto stated that FALINTIL guerrillas had kidnapped and killed Soares and dumped his body near his house where it was later discovered.[123]

6. Other Concerns

a) Persecution of East Timorese Youths in Jakarta

In 1991 a programme was initiated by the Department of Labour and the Tiara Foundation, under the auspices of Tutut Soeharto, to bring approximately 800 East Timorese youth to Java. They were promised rewarding jobs on Batam island. They were also promised vocational training at various centres around Java. The first to depart were given an official send-off.

These promises were not kept. Instead, the youths were given poorly paid manual work described by one as next to "slavery". The only training received was in the form of parade drill at the hands of KOPASSUS. Many of these youths drifted to Jakarta in search of better prospects; some of these have resorted to petty crime. Adding to their misfortune and initial betrayal of trust, the criminal livelihood of this section of the East Timorese community in Jakarta has made them vulnerable to pressure by the military to inform on other East Timorese and to carry out pro-integration rallies.

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[117] ANTARA, 6 October 1997.

[118] José Ramos-Horta Press Release, Lisbon, 6 October 1997.

[119] SiaR, MateBEAN, 5 December 1997.

[120] Reuters, Jakarta, 4 December 1997.

[121] Jawa Pos, 8 December 1997.

[122] SiaR, MateBEAN, 5 December 1997.

[123] LUSA, 17 December 1997.

It is these same youths who have become the victims of an outbreak of communal violence in which the military appears to have a hand. Reports from ETHRC sources reveal the presence of army and quasi-official personnel, such as members of the Pemuda Panca Marga (PPM), a government youth organisation backed by the military, during and after vigilante-style attacks on East Timorese by local Indonesian residents. It is believed the attacks were instigated by the military to eliminate East Timorese youths whom they discovered were acting as "double agents" for the East Timorese pro-independence movement.

It is alleged that members of the military and the central intelligence organisation (BIA) incited the local Indonesian population to violence by persuading local community leaders, including village and neighbourhood-level heads, as well as Moslem religious elders, that the East Timorese were planning to burn down the local mosque and erect a church. The criminal activities of the East Timorese were also given as justification for their "eradication" from Indonesian society.

Between 19 and 26 November a wave of attacks on East Timorese youths residing in the Jakarta suburb of Tanah Abang were carried out by roving mobs of local residents.[124] These mobs were supported in their actions by elements of the Indonesian security forces, and are believed to have included local criminal gangs and members of the Pemuda Panca Marga (PPM). On 19 November mobs of angry locals set fire to a hotel frequented by East Timorese youth and an East Timorese - owned street vendor's stall in the vicinity of the Tanah Abang train station. One youth, known by the name of **Carlos**, was apprehended by the mob while fleeing the fire and was severely beaten. On 20 November another youth, known as **Atay**, was travelling home by motorcycle when he was stopped by a crowd in the suburb of Kampung Bali and questioned as to his ethnic background. On learning that he was East Timorese, the crowd attacked him and he was seriously injured.

Also on 20 November, another mob confronted approximately 100 East Timorese youths who had gathered in the Tanah Abang area in response to the earlier attacks. Army personnel from the Jakarta military area command (KODAM JAYA), stationed at a nearby guard post were present, and it is alleged that the post commander threatened to "finish off" the East Timorese if they resisted. Further violence was when local East Timorese community leaders intevened.

On 21 November, at midnight, the group of East Timorese who had taken refuge at a house in Bongkaran Kayu Mati were attacked by a large mob wielding bladed weapons and clubs. The mob is reported to have been yelling "Allahu Akbar, kill all East Timorese." Army personnel were present at the time of the attack but they took no action to prevent the violence. Three East Timorese were killed in the attack: **Horacio Lopes**, 27, **Manuel**, 24, and **Atay**, 22. Atay, who had previously suffered serious stab wounds was again stabbed and died during this second attack. Another youth, Yohannes Yopie, 24, believed to be from Maumere, Flores, was also killed.

At approximately 1.30am on 22 November, in the immediate aftermath of the attack, the remaining East Timorese, numbering approximately seventy, were ordered into army busses, in which they were transported to "Mini Indonesia" theme park. On the night of the 23 November they were transferred to Ragunan Sports Centre. It is not clear whether they were arbitrarily detained at this location but they were at least coerced into staying there until 18 December. The reason for the stay, given by the KODAM JAYA Commander Major-General Syafri, was that the youths would be receiving "education and guidance" there. It is alleged that over a two-day period, 25-26 November, while still staying at Ragunan, their make-shift accommodation in Tanah Abang was razed to the ground, destroying all their personal belongings.

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[124] AFP, 23 November1997.

According to ETHRC sources, after 18 December the group was split up and transferred to various local military commands in the greater Jakarta district (JABOTABEK). The group was then further divided between the various posts within the command structure of each district, including District Military Command (KODIM), Sub-District Military Command (KORAMIL) and village level military command (BABINSA). Of the original seventy, it is believed at least thirteen were sent to the East Jakarta military district, twenty-four to South Jakarta, and twenty to West Jakarta.

This initiative is believed to have been conducted under the auspices of the PPM leader, Haryanto Badjoeri. It appears that they were not actually detained at these locations, but that they were coerced into staying there and members of the group were told that employment would be found for them while staying at the military bases. ETHRC sources have reported that nineteen of those sent to military bases have now sought political asylum at foreign embassies in Jakarta. Five entered the French embassy,[125] while a group of eight people and another group of six people sought asylum at the Spanish embassy.[126]

In the wake of this orchestrated attack on East Timorese youth there have been several other unconfirmed reports of sporadic vigilante-type attacks on East Timorese in the Tanah Abang area. These include the murder of three youths from the island of Bima, and of one East Timorese, in the vicinity of the Monas monument, on 26 November.

b) Asylum Seekers Enter Austrian Embassy

On 19 September, following the Demak bomb explosion, six East Timorese people, Avelino Coelho da Silva, his wife, Sabina, their daughters Adelsea Maria Coelho da Silva and Didina Maria Coelho da Silva, Nuno Vicente Pereira Saldanha and Custodio de Jesus Belo, entered the Austrian Embassy in Jakarta. The six requested political asylum and safe passage to Portugal. However, Indonesian authorities have refused to allow two of the asylum seekers, Avelino Coelho da Silva and Nuno Saldanha, to go to Portugal, claiming they were involved in the bomb-making operation in Demak, Java. Foreign Affairs Minister Ali Alatas said: "Based on evidence, two of six persons strongly suspected of involvement in the assembling of bombs in Demak. They made efforts to explode the bombs in East Timor...We have conveyed to Austria that we will not agree to let these two people freely to go to Portugal because they are criminals or even terrorists..." [127]

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[125] The five East Timorese entered the French embassy on 15 January 1998 and subsequently left for Portugal.

[126] Eight East Timorese entered the Spanish Embassy on 28 January 1998 and subsequently left for Portugal, while the other group of six entered the Spanish Embassy on 10 February 1998 and have also asked to go to Portugal.

[127] Indonesia Times, 24 October 1997.

1996 Nobel Peace Prize laureate José Ramos-Horta has denied the Indonesian allegation of terrorism, saying: "These asylum seekers are not terrorists as alleged by the Indonesian authorities ... Jakarta cannot document any murder of Indonesian civilians by the East Timorese resistance in the 22 years of Indonesian occupation."[128]

Despite pressure from the Indonesian government, the Austrian Embassy has refused to hand over da Silva and Saldanha. According to a report by TAPOL, the London-based Indonesia Human Rights Campaign, the Austrian Embassy has made it clear it would be wrong for them to hand over the two Timorese to the Indonesian authorities as they have no reason to believe that they are terrorists.[129] In fact, it has been reported that the East Timor Army Chief, Colonel Sidabutar, has admitted several times publicly that he is having difficulties in producing the evidence of terrorism which is required by the Embassy.[130]

Meanwhile, the six East Timorese people remain at the Austrian Embassy,[131] their future uncertain. There are concerns that they may have experienced some pressure from the Austrian Embassy to give themselves up.[132] However, the Austrian Embassy claims that it has not put any pressure on the group.

7. Arbitrary Detentions, Torture and ill-treatment for the Period January - July 1997 (Cases Not Previously Reported)

On 30 April, **Felix da Conceicao**, 72, his wife, **Aurora da Silva,** 56, **Jose da Conceicao,** 31, **Lourenca Ribeiro,** 29, and **Florindo da Costa,** 48 were arrested in the Metagou village, Bazartete sub-district, Liquica, by members of battalions 713 and 721. They were accused of having links with FRETILIN and of giving support, such as food, clothing, medication and information, to the Resistance guerrillas. They were taken to POLSEK (police sector) headquarters where they were subjected to psychological and physical torture including being punched, kicked and beaten with rifle butts, and being subjected to electric shock. The soldiers also took off Lourenca Ribeiro's clothes. The length of their detention is unknown.

On 1 May, in Remexio, Aileu District, a youth called **Januario Do Rego**, 18, from Aimer-Hun in the village of As-Mau, Remexio, was arrested by the Indonesian military, during the visit of Bishop Belo to Remexio. He was violently beaten by Mau-Tersa, a member of the Indonesian military. It was alleged that he had links with the Resistance guerillas.

On or about 29 May, **Lourenco** (no surname), was arrested in the village of Hau-Teho, Remexio sub-district, for allegedly being the leader of a group of youths who confronted the Indonesian military and burnt down a polling booth during the elections. Elections in the village were then cancelled by the authorities. Lourenco was tortured in detention.

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[128] AAP, 22 October 1997

[129] Tapol Bulletin No.144, December 1997.

[130] Ibid

[131] As of the date of this report.

[132] East Timor International Solidarity Centre (ETISC) Urgent Action, 18 December 1997. ETISC received messages from the asylum seekers, smuggled out of the Embassy, which claimed they had been subjected to subtle pressure to give themselves up voluntarily.

On the 3 June, in the village of Loi Huno in the Viqueque district, **Simao Fernandes,** from the village of Ossorua was arrested members of SGI (Special Intelligence Unit) of the Indonesian military. No further information is available. On the same day, **Luis da Silva**, 68, from the village of Lequi-Mota, was also arrested, tortured and later released.

On the 24 June, in Uai-Gae village, Baucau district, a group of nine people was arrested for allegedly having contact with the Resistance guerillas. The nine were: **Jeronimo da Costa**, 28, **Pedro Freitas**, 29, **Guilermo Freitas**, 28, **Serafim Freitas**, 22, **Alexander Freitas**, 26, **Alberto Faria**, 24, **Lamberto Freitas**, 29, **Quintino Freitas**, 29, and **Ciquito Freitas**, 24. Eight of them were taken to the Flamboyan Hotel in Kota Baru, Baucau, well-known as a Kopassus interrogation centre, while Jeronimo was taken to the Baucau police station. Two others from Uai-Gae, **Miguel Armindo Freitas** and **Saturnino da Costa** were arrested by five "civilians" who took part in the raid while **Fortuna da Costa** and **Marcelino da Costa** were arrested by an armed unit called Tripika.[133]

On 15 July, it is believed **Mario Mau-Lequi**, 43, **Tito de Almeida**, 23, **Agostinho de Almeida**, 23, **Alexandrino Soares**, 21, **Alexandre Lisboa**, 22, **Paulo Lopes**, 25, and **Joao do Rosario**, 24, all from Viqueque, were arrested by members of Kopassus at the village of Assamuta, in the Uatolari sub-district of Viqueque. It is not known where they were taken or whether they are still in detention.

On 23 July, it is believed **Joaquim Martins**, 35, **Pedro dos Santos**, 57, **Fernando Martins**, 35, **Domingos Gastao**, 63, and **Pedro** (no surname), 16, were arrested by members of the Indonesian military during an assault on the village of Dara-Lete, Liquica. Three helicopters landed in the village and the passengers included East Timor military Commander Colonel Slamat Sidabutar, who ordered the capture of the men. They were detained under suspicion of providing financial assistance and shelter to the armed Resistance. It is not known where they were taken or whether they are still in detention. Another three people who are unidentified were also captured and it is believed were interrogated and tortured at KODIM Liquica, under suspicion of being relatives of a FALINTIL commander.

Also in July, eleven youths were arrested by members of the Indonesian military posted in Baucau and accused of collaborating with the Resistance guerillas. As at 23 September 1997, their whereabouts was unknown despite attempts made by their families to locate them. It is believed some of youths were detained at an unknown location in Baucau while others were believed to have disappeared. The eleven are: **Jacinto Soares**, 15, **Domingos da Silva**, 20, **Carlito da Silva**, 20, **Fernando Boavida**, 11, **Domingos da Costa**, 15, **Juliao Boavida**, 12, **Paulino Pereira**, 23, **Domingos Boavida**, 23, **Armindo de Jesus Pereira**, 23, **Carlos Felipe**, 25 and **Juliao Filipe Ximenes**, 20.

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[133] HRW/Asia, September 1997, op cit.

D. CONCLUSIONS

Despite the increasing engagement of the international community in the search for peace in East Timor, grave human rights violations persisted in 1997. Arbitrary detentions occurred on a regular basis. Torture and ill-treatment, as well as excessive use of force by military and police personnel, remained widespread. Several extra-judicial executions and disappearances took place. The frequent recourse to repressive legislation, such as the "hate-sowing" articles of the Indonesian Criminal Code, undermined the fairness of trials and limited freedoms of association and expression. For its part, the East Timor Resistance committed several violations of international humanitarian norms.

What is required, to break this cycle of violence, is a change of approach in East Timor. By urgently clarifying the whereabouts of all persons documented as disappeared in this report and by establishing a central register of detainees in East Timor, the government of Indonesia would make an immediate difference to the situation in the territory. By implementing key provisions of the resolution passed by the UN Commission on Human Rights in 1997, it would help defuse tensions on the ground. By encouraging its diplomats to discuss in good faith, with the Office of the UN High Commissioner for Human Rights and through the UN-mediated peace talks, additional measures to curtail human rights violations, the government would signal its willingness to address this issue at a deeper level. Reciprocal moves by the Resistance, including enforcing respect for international humanitarian law by its combatants, could help build the confidence required for progress.

Yet these steps are unlikely to be taken without greater assistance from the international community. More active international engagement is required to break the deadlock. In the area of human rights, this entails signalling an unequivocal concern over persistent violations. It involves encouraging the government of Indonesia to implement key provisions of the resolution on East Timor passed at the UN Commission on Human Rights in 1997. As such, the international community should urge the government to invite the Special Rapporteur on torture and make better use of other thematic mechanisms of the UNCHR to impartially investigate allegations of grave violations like arbitrary detention and extra-judicial executions.

The international community could also encourage the government to examine long term possibilities for international assistance in the field of human rights, including options for an on-site UN human rights presence inside East Timor, directly with the Office of the UN High Commissioner for Human Rights and through the UN-mediated Tripartite Talks. In addition, concerned governments and the UN Secretary-General should urge the government of Indonesia to encourage the All-inclusive Intra-East Timorese Dialogue to also explore such possibilities in a rigorous manner.

The international community need not wait until the details of such agreements are put into practice. In the meantime it can direct assistance to non-governmental organisations that are documenting violations, aiding its victims, and promoting a greater awareness of human rights on the ground in East Timor, often at great risk to their own safety. Basic standards of good development practice should be observed to ensure that assistance is directed to representative East Timorese organisations and that their absorptive capacity is built up gradually. By judiciously combining principled diplomacy at the UN Commission on Human Rights with discrete engagement through UN peace-making and assistance to NGOs on the ground, the international community could help break the cycle of violence in East Timor.

APPENDIX A

Students Detained & "Disappeared" – UNTIM Incident

Charged under Article 170 KUHP & awaiting trial	"Disappeared"	Detained and later released
Bernandino Simao	Abrao Benjamin	Antonio Viegas
Domingos da Silva	Domingos dos Santos	Adolfo da Costa
Francisco de Deus	Duarte Fernando de Araujo	Joquim Matetai
Juvinal dos Santos		Orlando (no surname)
Silveirio Baptista		Albano Barreto
Vicente da Cruz		Abrao do Nascimento
		Natalina Duarte de Araujo (f)
		Marito de Almeida

APPENDIX B

Detainees, Charges & Sentences – Alfred Siga Killing

Detainee	Torture	Charged under Articles 170 & 351 (KUHP)
Baltazar Sebastio Henrique Belo, 20	Tortured	Served 6 months and 15 days in prison
Gregorio Jeronimo Sequeira	Tortured	Served 6 months and 15 days in prison
Manuel de Araujo Barreto, 21	Tortured	Served 6 months and 15 days in prison
Eduardo Guterres Miguel, 21	Tortured	Served 6 months and 15 days in prison
Luis Alfonso, 19	Tortured	Served 6 months and 15 days in prison
Jose Nuno Lopes, 21	Tortured	Served 8 months in prison
Armando da Costa Soares, 18		Served 6 months and 15 days in prison
Abel Fernandes, 27		Served 6 months and 15 days in prison
Horasio Viegas Lobato, 29		Served 6 months and 15 days in prison
Jose Maria Jeronimo, 32		Served 6 months and 15 days in prison
Feliciano Maria Martins		Served 6 months and 15 days in prison
Luis Afonso		Served 6 months and 15 days in prison
Celestino Soares		Served 6 months and 15 days in prison
Claudino Guterres		Served 6 months and 15 days in prison
Constantino Soares		Served 6 months and 15 days in prison
Jose de Rosario		Served 6 months and 15 days in prison
Joao Budiono da Costa Morais, 19		Served 6 months and 15 days in prison
Zill Gilmartins, 22		11 months imprisonment; due for release in March 1998
Bobby Xavier		To be tried in March 1998

APPENDIX C

Detainees, Charges & Sentences – Mahkota Hotel Demonstration

Charged under Articles 354 and 56 KUHP, currently on trial	Charged under Articles 154, 155, 216 & 55.1 KUHP, currently on trial
Olga Quintao Amaral, 19	Luis de Fatima Pereira, 22
Celina Pires da Costa, 20	Nelson Pereira, 22
Jose Gabriel Guterres, 17	Miguel Alves, 27
Joao Henrique (de Deus), 21	Carlos Gusmao, 25
Constancio Gomes Leite, 22	Mateus da Costa Belo, 22
Jose Sarmento Boavida, 23	Moises Feliciano Soares, 23
Mateus Inacio da Costa,20	Hermengildo da Costa, 22
Bendito Amaral Alves.18	Domingos da Costa, 20
Anino da Silva, 18	Amaro Pereira
Augusto Raimundo Matus, 20	Ronaldo Brasil Januario, 20
Domingos Sarmento, 22	Celestino Manuel Pereira, 21
Rafael de Almeida, 23	Mariano da Silva, 28
Abel Ximenes, 21	Alipio Soares
Zito Borges Bermau, 20	Tomas Augusto Correia, 33
Alexio da Silva Ximenes, 21	
Anacleto da Silva	

Charged under Articles 154 & 55.1 KUHP sentenced to one year imprisonment	Detained and on trial
Marito Brafas Soares	Tomas (no surname)
Cancio A. Henrique Guterres, 26	Zelia (no surname)
Alberto da Costa, 23	Angela (no surname)

APPENDIX D

Detainees, Charges & Sentences – Brimob Assault

Detainees	Charges	Progress
David Ximenes, 44	Articles 106, 108, 110 KUHP	On Trial
Adelio de Fatima Barreto Henriques, 23	Articles 56, 108, 214(1) subs. 2 KUHP	On Trial
Romeo da Conceicao, 35	Articles 108, 214, 55, 56 KUHP	On Trial
Rainaldo Marcal, 25	Articles 108, 214, 55, 56 KUHP	On Trial
Francisco da Conceicao, 22	Articles 108, 110, 55 KUHP	On Trial
Ijido da Cunha, 20	Articles 108, 214 KUHP	On Trial
Joao da Cunha, 30	Articles 108, 110, 214, 55, 56 KUHP & Emergency Law No.12 of 1951	On Trial
Jose Mali Amaral	Articles 108, 110, 53 KUHP & Emergency Law No.12 of 1951	On Trial
Francisco da Silva, 23	Articles 108, 214 KUHP	On Trial
Mariano da Costa Sarmento Soares, 22	Articles 108, 214, 55 KUHP	On Trial
Ernesto Rodrigues Martins	Not known	On Trial
Francisco Soares , from Laclubar	Not known	On Trial
Francisco Soares, from Manatuto	Not known	On Trial
Jeremias da Costa	Not known	On Trial
Akau da Costa	Not known	On Trial
Francisco Magno	Not known	On Trial
Agusto Carvalho	Articles 106, 108, 110, 55, 56 KUHP & Emergency Law No.12 of 1951	Awaiting trial
Matias Marcal Soares, 37	Articles 106, 110 KUHP	Awaiting trial
Estanislau Fragnito Braga, 22	Articles 187, 165 KUHP	Awaiting trial
Rui Leite Correia, 29	Articles 108, 110, 55 KUHP	Awaiting trial
Frederico Soares, 32	Articles 108, 110, 214, 55, 56 KUHP & Emergency Law No.12 of 1951	Not known
Vasco da Gama	Articles 106, 108, 110, 55, 56 KUHP	Not known
Francisco do Carmo	Articles 106, 108, 110, 55, 56 KUHP	Not known
Francelino Maria Manuel Freitas, 22	Articles 187, 65 KUHP	Not known
Tomas Ornai, 29	Art. 55, 56, 106, 108 (1) subs. 2, KUHP	Not known
Adelino Pinto, 25	Article 187 subsection 1 KUHP	Not known
Joaquim de Araujo, 36	Articles 108, 110, 55 KUHP	Not known
Dominggos Pereira, 33	Articles 108, 110, 56 KUHP	Not known
Joeson Belo	Not known	Not known

APPENDIX E

Detainees, Charges & Sentences – Quelicai Assault

Detainees	**Current Status**
Luis Maria da Silva, 57	Sentenced to death
Francisco da Costa, 36	Sentenced to death
Muhammad Amin, 19	Sentenced to 17 years imprisonment, minus detention time
Fortunato Ximenes, 31	Sentenced to 17 years imprisonment, minus detention time
Alvino Freitas, 19	Sentenced to 17 years imprisonment, minus detention time
Lodewijk Manuel de Armento, 29	Currently on trial in Baucau; Possible death penalty
Francisco de Jesus Correia, 32	Currently on trial in Baucau; Possible death penalty
Up to 15 unidentified East Timorese	Currently on trial in Baucau; Possible 20 year jail term